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## GENERAL PROVISIONS

### LAW AND ORDER CODE

#### ARTICLE I

##### GENERAL PROVISIONS

[NOTE: Except as otherwise noted, the provisions of Article I of the Law and Order Code were enacted on June 22, 1974 by Ordinance No. 26.]

#### CHAPTER A. JURISDICTION

##### Section 101. Personal Jurisdiction.

Subject to any limitations, restrictions or exceptions imposed by or under the authority of the Constitution or laws of the United States, or by the Constitution or By-Laws of the Tribes, or by ordinances of the Tribes, or by express provisions elsewhere in this Code, the courts of the Tribes shall have civil and criminal jurisdiction over the following persons:

a. Any person residing, located or present within the Reservation for:

(1) any civil cause of action; or

(2) any charge of criminal offense prohibited by this Code or ordinances of the Tribes when the offense alleged to have occurred within the Reservation.

b. Any person who transacts, conducts or performs any business or activity within the Reservation, either in person or by an agent or representative, for any civil cause of action or charge of criminal offense prohibited by this Code or ordinances of the Tribes arising from such business or activity.

c. Any person who owns, uses or possesses any property within the Reservation, for any civil cause of action or charge of criminal offense prohibited by this Code or ordinances of the Tribes arising from such ownership, use or possession.

d. Any person who commits a tortious act or engages in tortious conduct within the reservation, either in person or by an agent or representative, for any civil cause or action arising from such act or conduct.

e. Any person who commits a criminal offense prohibited by this Code or ordinances of the Tribes, by his own conduct or the conduct of another for which he is legally accountable, if:

(1) The conduct occurs either wholly or partly within the Reservation; or

(2) The conduct which occurs outside the Reservation constitutes an attempt, solicitation, or conspiracy to commit an offense within the Reservation, and an act in furtherance of the attempt or conspiracy occurs within the Reservation; or

(3) The conduct which occurs outside the Reservation constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense prohibited by this Code or ordinances of the Tribes and such other jurisdiction.

None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established upon anyone or more of them as applicable.

Subject to the provisions of Section 102, nothing contained within this Code shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribes to suit, which immunity is hereby reaffirmed.

#### Section 102. Subject Matter Jurisdiction.

A. Notwithstanding any other provision of law, for purpose of this section, the term "Person" shall mean any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, a state of the United States, any county, city, municipality, district, or other political subdivision of a state, or any other group or combination acting as a unit but does not include the Colorado River Indian Tribes, any of its enterprises or subdivisions or any of its officers, agents or employees while acting in their official capacity.

B. Subject to any limitations, restrictions or exceptions imposed by or under the authority of the Constitution or laws of the United States, or by the Constitution or Bylaws of the Tribes, or by the ordinances or codes of the Tribes, or by express provision elsewhere in this Code, the courts of the Tribes shall have jurisdiction over all civil causes of action and over all controversies between any persons. Subject to the same limitations, restrictions or exceptions, the courts of the Tribes shall have criminal jurisdiction over all offenses prohibited by ordinances or codes of the Tribes.

C. The courts of the Tribes shall have jurisdiction to determine any claim of violation of Section 202 of Title II, P.L. 90-284 (82 Stat. 77) enacted by the Congress of the United States on April 11, 1968, the Constitution or Bylaws of the Tribes, or of any ordinances or codes of the Tribes and to grant appropriate relief for injustice or deprivation resulting directly and exclusively from such violation only upon an express and effective waiver of the Tribe's sovereign immunity from unconsented suit.

D. No action brought against the Tribes under this section shall be brought in the name of an enterprise, subdivision, agent or elected official of the Tribe but shall be brought in the name of the Colorado River Indian Tribes.

E. Service of process in any action brought against the Tribes shall be individually made both on the Chairman of the Colorado River Indian Tribes and the Tribal Attorney of the Colorado River Indian Tribes. Notwithstanding any other provision of law, service made in any other manner on the Tribe will be invalid and ineffective.

F. Nothing contained in subsection (C) shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribes for any purpose.  
[As Amended December 13, 1985, Ord. No. 85-6.]

#### Section 103. Concurrent Jurisdiction.

The jurisdiction invoked by this Code over any person, cause or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Code does not recognize, grant, or cede jurisdiction to any other political or governmental entity which jurisdiction does not otherwise exist in law.

#### CHAPTER B. ADMINISTRATIVE PROVISIONS

#### Section 104. Definitions and Construction.

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a. In this Code, except where otherwise specifically provided or unless the context otherwise requires, the following terms and expressions shall have the meanings defined below wherever they are utilized in this Code.

(1) "Code" means this Law and Order Code of the Colorado River Indian Tribes, consisting of Article I (General Provisions), Article II (Courts and Procedures), Article III (Criminal Offenses), Article V (Removal of Non-Members) and Article VI (Traffic Control and Operations of Vehicles), together with all the amendments, additions or modifications which may be enacted from time-to-time by the Tribal Council.

(2) "Colorado River Indian Tribes" means the membership and the organization of the Colorado River Indian Tribes of the Colorado River Indian Reservation, under and pursuant to its Constitution and By-Laws, as amended, ratified July 17, 1937 and approved August 13, 1937, in accordance with the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

(3) "Tribal Council" means the Tribal Council of the Colorado River Indian Tribes existing and functioning pursuant to the Constitution and By-Laws of the Colorado River Indian Tribes.

(4) "Reservation" means the Colorado River Indian Reservation as established, existing and geographically defined under the Laws of the United States, encompassing all territory within its exterior boundaries as now or hereafter prescribed or ascertained, including fee patented lands, allotted lands, townsites, roads, waters, bridges, and lands and rights of way owned, used and claimed by any person.

(5) "Tribe" means the Colorado River Indian Tribes, and "tribal" means belonging or pertaining to the Tribes.

(6) "Tribal Court" means the court created, existing and operating under the provisions of Chapter A of Article II of this Code, and the judges of that court, collectively and individually, serving and acting in that office and capacity.

(7) "Appeals Court" means the court created, existing and operating under the provisions of Chapter B of Article II of this Code, and the judges of that court, collectively and individually, serving and acting in that office and capacity.

(8) "Juvenile Court" means that division of the Tribal Court created, existing and operating under the provisions of Article IV [now Article 1 of the Domestic Relations Code] and Section 201.e. of Chapter A of Article II of this Code, and the judges of that court, and the judges of that court, collectively and individually, serving and acting in that office and capacity.

(9) "Courts of the Tribes" means the Tribal Court, including the Juvenile Court, and the Appeals Court.

(10) "Court" means that one of the courts of the Tribes to which the reference is intended to apply as determined by the particular section of this Code in which the reference is made, and all and each of the judges of that court acting collectively and individually in that office and capacity.

(11) "Judge" means a judge of the court which is the subject of the particular section of this Code in which the reference is made.

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(12) "Criminal" means a reference to these offenses under this Code and any other ordinance of the Tribes for which upon conviction a person may be subject to a fine or be imprisonment, or both and to the cases involving such offenses or alleged offenses, and to the procedures for trial or other disposition of them.

(13) "Civil" means a reference to all non-criminal issues, matters, subjects, cases and controversies between or among any persons.

(14) "Person" means any natural individual or person, of any age, and also any corporation, partnership, association, company, agency, (public, private, or governmental), institution or other identifiable entity whether or not it had legally recognizable status.

(15) "Party" means any person who is a participant, or involved in or the subject of or to, whether active or inactive, voluntary or involuntary, including one made a party by the action of another person, in or to any case, trial, hearing, controversy, matter, relationship or proceeding which is encompassed within any procedure under this Code.

(16) "Property" means realty and personalty, of whatever nature, including fixtures, money, claims, and intangible rights and interests in property.

b. In construing the provisions of this Code, unless the context otherwise requires, the following shall apply:

(1) This Code shall be liberally construed to to effect its purpose and to promote justice.

(2) Words in the present tense include the future and the past tenses.

(3) Words in the singular number include the plural, and words in the plural number include the singular.

(4) Words of the masculine gender or neuter include masculine and feminine genders and the neuter.

(5) The prosecution of all criminal offenses and the conduct of all procedures pertaining to their trial or other disposition shall be in the name and for the benefit of the Tribes.

(6) Each appointment to be made by the Tribal Council under the provisions of this Code shall be by resolution requiring the affirmative vote of at least six (6) members of the Tribal Council, except for the temporary appointment of judges pursuant to Section 201 b., which appointments shall require only a majority vote of a quorum at a special or regular meeting of the Tribal Council.

[As Amended July 30, 1980, Ord. No. 26H, § 1; November 13, 1982, Ord. No. 82-1.]

Section 105. Judicial Clerk.

a. A person shall be appointed by the Tribal Council, with the approval of the Chief Judges of the Tribal Court and the Appeals Court, to serve all of courts of the Tribes as clerk, and such person shall be designated as Judicial Clerk. Upon the recommendation of the Chief Judges of the Tribal Court and the Appeals Court, the Tribal council may appoint assistants for the Judicial Clerk. The Tribal Council shall

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prescribe the salaries of the Judicial Clerk and any assistants, which shall be paid by the Tribe. The salary of a person appointed and serving as Judicial Clerk or as an assistant Judicial Clerk shall not be reduced while he is so serving without the approval of the Chief Judges of the Tribal Court and the Appeals Court. Any person serving as Judicial Clerk or as an assistant Judicial Clerk may be discharged from that position only by the joint decision of the Chief Judges of the Tribal Court and the Appeals Court.

b. The Judicial Clerk shall be responsible to the courts of the Tribes for the administrative functioning of those courts, and for such other administrative and ministerial duties as may be prescribed by this Code or assigned to him by the Chief Judge of either the Tribal Court or the Appeals Court. The duties of the Judicial Clerk shall include but shall not be limited to, the following:

(1) Maintaining records of all court proceedings, to include identification of the title and nature of the case, the names of the parties, the substance of the complaint, the names and addresses of all witnesses, the dates of hearings and trials, names and addresses of all parties and witnesses appearing at all hearings or trials, all court and jury rulings, findings, orders and judgments, and other facts or circumstances designated by the judges of the courts and deemed of importance by the Judicial Clerk;

(2) Maintaining all pleadings, documents, and other materials filed with the courts;

(3) Maintaining all evidentiary materials, transcripts, and records of testimony filed with the courts;

(4) Collecting and accounting for fines and other moneys and properties taken into custody of the courts;

(5) Preparing and serving notices, summons, subpoenas, warrants, rulings, findings, opinions and orders as prescribed by this Code and as may be designated by the judges of the courts;

(6) Assisting other persons in the drafting and the execution of complaints, petitions, answers, motions and other pleadings and documents for court proceedings; provided, however, the Judicial Clerk and his assistants shall not give advice on questions of law, nor shall they appear or act on behalf of any other person in any court proceeding;

(7) Administering oaths and witnessing execution of documents;

(8) Maintaining a supply of blank forms to be prescribed by the courts for use by all persons having business before the courts;

(9) Providing copies of documents in court files to other persons upon request, and upon receipt of a charge therefor to be prescribed by the Judicial Clerk to cover the cost of such service; provided, however, there shall be no charge for such service to the judges of the courts and, provided further, no copies of documents or material shall be provided from files which are to be kept confidential or unavailable for public inspection pursuant to any provisions of this Code or other ordinance of the Tribes, or if prohibited by any court order;

(10) Providing security for all files, documents and materials filed with or in the custody of the courts, and insuring that they are not removed from the offices of

the Judicial Clerk and the courts except upon the specific instructions of a judge of the courts;

(11) Maintaining a library of laws, regulations, orders, opinions, and decisions of the United States and its administrative agencies and courts, the Tribal Council and the courts of the Tribes, and of the various states, insofar as they may be pertinent to the administration of justice for the Tribes and within the Reservation. The acquisition of such materials shall be subject to appropriations of funds therefor by the Tribal Council. Materials in the library shall be available for use in the office of the Judicial Clerk during normal working hours by any person subject to the jurisdiction of the courts of the Tribes, and his authorized representatives.

Section 106. Counsel.

A. Any person or entity who is a party in a civil or criminal matter before any of the courts of the Tribes may be represented by:

- (1) himself or in the case of an entity, a duly appointed agent;
- (2) any member of the Tribes, except the Judicial Clerk, an assistant Judicial Clerk, a judge of any of the courts of the Tribes, a member of the Tribal Council, or any Tribal law enforcement official;
- (3) an advocate or professional attorney who is not a member of the Tribes but who is employed by the Tribes to represent persons or entities before the courts of the Tribes.
- (4) a professional attorney who is not a member of the Tribes but who is licensed hereunder to practice law before the courts of the Tribes. Any party desiring the services of a professional attorney shall arrange for and bear the expenses of such representation.

B. The Tribes may be represented by a person, advocate or professional attorney employed, retained, under contract or otherwise duly authorized to represent the Tribes.

(1) No such person, advocate or professional attorney shall be appointed to represent any person or entity in any civil or criminal matter, in any of the courts of the Tribes.

(2) Notwithstanding any other provision of law, no such person, advocate or professional attorney shall be prohibited or prevented from representing the Tribes in any civil or criminal matter before any of the courts of the Tribes except by express action of the Tribal Council.

C. No person or entity shall be entitled to representation provided at the expense of the Tribes in any civil or criminal matter before any of the courts of the Tribes.

D. No person, advocate or professional attorney shall be appointed to represent any person or entity before the courts of the Tribes except as specifically authorized by ordinance of the Tribes.

E. All criminal trials will be prosecuted before the Tribal Court by a member of the Tribal Police Department, who shall be designated by the Chief of that Department, unless either:

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(1) The complaining witness or person claiming to be injured by the alleged offense gives a written notice to the Chief of the Tribal Police Department, at least three days prior to trial, that he elects to serve as prosecutor, in which event, unless the Tribal Council appoints a prosecutor, he shall be entitled to so act, personally but not by counsel, in addition to appearing as a witness; or

(2) The Tribal Council appoints a prosecutor for that trial, or for trials during a prescribed period of time to be designated by the Tribal Council and which includes that trial. If such a prosecutor is appointed, he shall conduct the prosecution of the trial to the exclusion of all other persons except for their appearance as witnesses. Such a prosecutor must be appointed by the Tribal Council for any trial in which any member of the Tribal Police Department is a defendant or for which more than one complaining witness or allegedly injured person seeks to serve as prosecutor.

F. The Tribal Council shall appoint a person to represent the prosecution in appeals of criminal trials and matters from the Tribal Court to the Appeals Court. This appointment may be either for individual cases or matters, or it may be a continuing appointment for such cases and matters which may be subject from time to time for such appeals. The appointment in individual cases may be of the complaining witness or person claiming to be injured by the alleged offense, but he shall serve personally and not by a counsel.

G. Professional attorneys who are not members of the Tribes may appear on behalf of any party (except for a complaining witness in a criminal case or for a person claiming to be injured by the alleged criminal offense), in any trial or proceeding before the courts of the Tribes, provided that they have a license in force to practice law before the Courts of the Tribes, issued by the Judicial Clerk and approved by the Chief Judges of the Tribal Court and the Appeals Court. Such a license shall be issued and approved upon the applicant complying with all of the following requirements:

(1) Filing with the Judicial Clerk an affidavit that the applicant is licensed to practice law before a United States District Court and the Supreme Court of a state of the United States.

(2) Filing with the Judicial Clerk an affidavit that the applicant has studied and is familiar with the Constitution and By-Laws of the Tribes, this Code, all other ordinances of the Tribes, Title 25 of the United States Code, and Title 25 of Code of Federal Regulations.

(3) Paying an annual license fee as prescribed by the Tribal Council.

(4) Taking the following oath before the Judicial Clerk:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and By-Laws of the Colorado River Indian Tribes;

"I will maintain the respect due to the Courts of the Colorado River Indian Tribes and their judicial officers;

"I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly valid or debatable under the law;



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"I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and I will never seek to mislead any judge or jury by any artifice, or by false statement or misrepresentation of fact or law;

"I will employ in the conduct of my duties the highest degree of ethics and moral standards with which my profession is charged, and I will be guided at all times by the quest for truth and justice;

"In the conduct of my duties as an attorney I will not impune the morals, character, honesty, good faith, or competence of any person, nor advance any fact prejudicial to the honor of reputation of any person unless required by the justice of the cause with which I am charged."

H. A license issued pursuant hereto may be revoked or suspended by the Tribal Court. Such action may be taken on its own motion by that court or upon sworn complaint by any member of the Tribes filed with it. Revocation or suspension shall be ordered only after written notice to the licensee of the motion or complaint and after a hearing before that court. Following such a hearing that court may revoke or suspend the license upon a finding that the licensee been disbarred or suspended from the practice of law by any court of the United States or any state, or has filed a false affidavit with the Judicial Clerk to obtain his license, or has violated his oath made before the Judicial Clerk, or has been guilty of misconduct or unethical conduct in the performance of his duties as an attorney, or has been guilty of contemptuous conduct toward one of the courts of the Tribes.

[As Amended May 7, 1976, Ord. No. 26D; June 12, 1982, Ord. No. 26P; August 2, 1984, Ord. No. 84-9.]

Section 107. Contempt of Court.

a. Willful and unjustifiable misbehavior by any person which disrupts, obstructs or otherwise interferes with the conduct of any proceeding by any of the courts of the Tribes, or which obstructs or interferes with the administration of justice by any of the courts of the Tribes, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of any of the courts of the Tribes shall constitute contempt of the court.

b. When contempt of court is committed in the presence of such court it may be punished summarily by that court. In such case an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment therefor.

c. When it appears to the court that a contempt may have been committed out of the presence of the court, the court may issue a summons to the person so charged directing him to appear at a time and place designated for a hearing on the matter. If such a person served with a summons fails to appear at a time and place so designated, the court may order his arrest and the delivery of him forthwith before the court for hearing. The court shall conduct a hearing, and if it finds him guilty of contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment therefor.

d. Any person found in contempt of court as specified in this Section or elsewhere in this Code or any ordinances of the Tribes may be sentenced by the court by imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred and Fifty Dollars (\$150.00), or both.

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### Section 108. Notices and Service.

a. Any notice or process to any person or party which is required or may be given or served under any provision of this Code shall be served in accordance with one of the following provisions as applicable.

(1) If to a natural person, by delivering it to him personally, or by leaving it at his usual place of residence with a member of his family of the age of eighteen (18) years or older.

(2) If to any other than a natural person, by delivering it personally to any owner, proprietor, officer, director, partner, member, associate, principal stockholder, manager, foreman, or supervisor of such person, or by leaving it at any of its offices or places of business with its principal employee, agent or representative at that place.

(3) In any trial, case or proceeding pending before any of the courts of the Tribes, if a person has made any appearance in that trial, case or proceeding, as a party or otherwise, by personal appearance, by counsel, or by filing a complaint, answer, motion or other pleading, then any subsequent notice in that same trial, case or proceeding may be served upon him by United States mail. Such a notice shall be addressed to him at the address indicated by or at his appearance, or his last known address, or the address of his counsel if his appearance was made by counsel.

b. Except as otherwise provided by this Code, any notice, order, summons, subpoena, judgment or command of, from or by one of the courts of the Tribes, and any such process or communication on behalf of the prosecution in any criminal case, shall be served or executed by the Judicial Clerk, an assistant Judicial Clerk, a member of the Tribal Police Department, or some other person designated for that purpose by that court. Any notice, complaint, pleading, instrument, or process of or by any party to any civil trial, case or proceeding before any of the courts of the Tribes may be served by any person of the age of eighteen (18) years or older who is not a party thereto. Upon the request of any party in such civil matter, such service will be made for him within the Reservation by the Judicial Clerk, or an assistant Judicial Clerk, and the expense thereof will be charged to that party. Any service or execution hereunder shall be verified by a certificate of the person making the service of execution, stating upon whom, when, how and where it was made. That certificate shall be filed with the court.

#### c. Alternative methods of service.

(1) Registered Mail. If any person or party has not made an appearance in a trial, case or proceeding pending before the courts of the Tribes, so that the provisions of Section 108a. (3) are not applicable, and that person or party cannot be located within the Reservation but the whereabouts of that person or party outside the Reservation are known, service may be obtained by depositing a copy of the notice or process in the U.S. mails, addressed to the person or party to be served, by registered or certified mail with request for a return receipt signed by the addressee only. Upon return through the United States mails of the receipt, signed by the addressee, the person so serving the notice or process shall file the return receipt with the court, together with an affidavit alleging, (i) the circumstances warranting the utilization of the procedure authorized under this Section 108c (1), (ii) that a copy of the notice or process was mailed to the person or party being served, (iii) that it was in fact received by said person or party as evidenced by the attached receipt, and (iv) the date of the return of the receipt to the serving person. The affidavit shall be prima facie evidence

of personal service. Such service shall be with the same force and effect as if made pursuant to Section 108a. (1) or (2).

(2) Publication. Service by publication shall be allowed only in or for a trial, case or proceeding affecting specific property or status or other proceedings in rem. Service by publication may be had upon unknown persons, a corporation which cannot be served because no person can be found upon whom such service can be made, a non-resident of the Reservation, a person who has departed from the Reservation without intention of returning, a person who conceals himself to avoid service of process, or a person whose whereabouts are unknown or who cannot be served by personal service.

a. The person or party desiring service of notice or process by publication shall file a motion verified by the oath of such party or of someone in his behalf for an order of publication. It shall state the facts authorizing such service, and shall show the efforts, if any, that have been made to obtain personal service, and shall give the address, or last known address, of each such person or party to be served or shall state that his address and last known address are unknown. The court shall hear the motion ex parte and, if satisfied that due diligence has been used to obtain personal service or that efforts to obtain the same would have been to no avail, it shall order publication of the notice or process in a newspaper published or publically distributed within the exterior boundaries of the Reservation, at least once a week for four successive weeks, and the service shall be complete on the day of the last publication. Within fifteen (15) days after the order, the person making the service shall mail a copy of the notice or process to each person whose address or last known address has been stated in the motion. Proof of service by publication shall be by affidavit of publication by the publisher, or his designee, of the newspaper in which it appeared, together with an affidavit of the person making the service as to the mailing of a copy of the notice of process.

D. At any time in its discretion and upon such terms as it deems, just, the court may allow any notice, process or proof of service thereof to be amended, unless it clearly appears the material prejudice would result to the substantial rights of the person or party against whom the notice or process issued.

E. Subject to the exceptions expressly set forth below and elsewhere in this Code, no trial or hearing in any matter, case or proceeding shall be conducted by any of the courts of the Tribes unless all parties to it have been given at least five (5) days advance written notice, which notice shall include identification of the subject of the trial or hearing, and the time and place at which it will be conducted. Exceptions to that requirement are as follows:

(1) No trial or hearing shall be conducted in any matter, case or proceeding less than twenty (20) days after both filing of the original complaint, application, or petition by which it was commenced and service of a copy of it upon all other parties, unless the other parties consent to an earlier trial or hearing; provided, however, that if original service in a trial, case or proceeding upon a person or party is obtained pursuant to the provisions of Section 108.C.(1) or (2), the time specified in this Section 108.E.(1) shall be thirty (30) days.

(2) If any notice of any trial or hearing is given by mail pursuant to the provisions of Section 108.A.(3), an additional five (5) days shall be allowed prior to the trial or hearing.

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### Section 109. Assistance to the Courts.

A. In any trial, case or proceeding pending before one of the courts of the Tribes, the court on its own motion may request the advice and assistance of employees of the United States Bureau of Indian Affairs upon any issue or matter to be considered or decided by him. Any testimony on issues of fact by such an employee shall be given under oath in open court, and the employee shall be subject to cross-examination by any party, in the same manner and on the same basis as any other witness. Any advice or recommendations by such an employee to the court shall also be in open court, subject to rebuttal by any party. No testimony of such an employee shall be taken, nor shall his advice or recommendations be given, except at a scheduled trial or hearing preceded by notice to all parties.

B. The court of the Tribes may request and obtain advice, recommendations and opinions on questions of law from attorneys of the Office of the Solicitor of the United States Department of the Interior, and the United States Department of Justice, and from the general attorney retained by the Tribes. Any such advice, recommendation or opinion obtained specifically to aid in the disposition of a pending trial, case, or proceeding thereto shall be written, and copies shall be made available to all parties thereto prior to any decision on the subject by the court.

### Section 110. Law Applicable in Civil Actions.

A. In all civil cases the Tribal Court shall apply any ordinances or customs of the Tribes. Where any doubt arises as to the customs and usages of the Tribes, the Court may request the advice of tribal members familiar with the customs and usages.

B. In the event that a case or controversy arises which is not covered by the traditional customs and usages of the Tribes, or ordinances of the Tribal Council, the Court may be guided by appropriate Federal law and regulations or by the laws of the State of Arizona or California.

### Section 111. Appropriations.

A. The Tribal Council shall appropriate and authorize the expenditure of tribal funds for the operation of the courts of the Tribes. The amounts to be so appropriated shall be as determined by the Tribal Council, consistent with the needs of the courts for proper administration of justice within the Reservation and for the Tribes.

B. To assist the Tribal Council in making such appropriations, the Chief Judges of the Tribal Court and the Appeals Court shall submit proposed budgets and reports of expenses and expenditures to the Tribal Council, at such intervals and in such form as may be prescribed by the Tribal Council. Such budgets and reports shall include the operation of the office of the Judicial Clerk.

C. The Tribal Council may prescribe a system of accounting for funds received from any source by the courts of the Tribes and the Judicial Clerk.

### Section 112. Effective Date, Repeals and Amendments.

A. This Code shall become effective on June 22, 1974.

B. Upon the effective date of this Code, the following are repealed:

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(1) Chapters I, II, III, (Sections 1 through 19), IV, V, VI and VIII of the Law and Order Code of the Colorado River Indian Tribes, each separately adopted by the Tribal Council on January 6, 1940.

(2) Ordinance No. 4 of the Tribal Council adopted January 6, 1945, as amended April 19, 1969.

(3) Ordinance No. 13 of the Tribal Council adopted November 3, 1956.

(4) Ordinance No. 16 of the Tribal Council adopted November 13, 1965, as amended January 22, 1969.

[As Amended, Feb. 15, 1975 by Ord. No. 26C]

### CHAPTER C. TRIBAL POLICE.

#### Section 113. General Provisions.

There shall be a Tribal police department, to be known as the Colorado River Indian Tribes Police Department (CRIT P.D.), consisting of a Chief of Police, to be hired by the Tribal Council, and however many officers and supporting personnel as from time-to-time shall be hired by the Chief of Police.

#### Section 114. Chief of Police.

The duties of the Chief of Police shall be to supervise and direct the operations of the Police Department and its personnel and to act as a liaison to any other law enforcement agency.

#### Section 115. Officers.

The duties of Officers of the CRIT P.D. shall be to enforce the laws of the Colorado River Indian Tribes, and the laws of the United States where applicable, and to protect the property, safety and welfare of the community.

## GENERAL PROVISIONS

### Section 116. Cross Deputization.

Officers of other police departments or lawenforcement agencies may be deputized into the CRIT P.D.

### Section 117. Commissioning of the Chief of Police and Officers.

The Chief of Police and Officers shall swear (or affirm) the following oath before the Chief Judge of the Tribal Court of the Colorado River Indian Tribes:

"I, \_\_\_\_\_, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the Colorado River Indian Tribes against all enemies; that I will carry out faithfully and impartially the duties of my office to the best of my ability; that I will cooperate, promote and protect the best interests of the Colorado River Indian Tribes in accordance with the Constitution and Bylaws of the Colorado River Indian Tribes."

The Chief of Police and each Officer shall be issued identification cards to certify their commission. The commission card of the Chief of Police shall be signed by the Chairman and the Secretary of the Tribal Council. The commission card of Officers shall be signed by the Chairman of the Tribal Council and the Chief of Police.

### Section 118. Direction of Chief of Police and Officers.

The Chief of Police and, in his absence, the next in command, shall be under the direction of the Chairman of the Tribal Council, or his designee, who shall carry out the policies and mandates of the Tribal Council. All such actions of the Tribal Chairman, or his designee, shall be subject to subsequent action by the Tribal Council.

### Section 119. Rules and Regulations.

The Tribal Council, by appropriate resolution, may provide rules and regulations governing the operation of CRIT P.D. and its personnel.

[As Amended, July 17, 1981 by Ord. No. 26I]

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LAW AND ORDER CODE  
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COURTS AND PROCEDURES

[NOTE: Except as otherwise noted, the provisions of Article II of the Law and Order Code were enacted on June 22, 1974 by Ordinance No. 26.]

CHAPTER A. TRIBAL COURT

Section 201. General Provisions.

a. There shall be a Tribal Court consisting of a Chief Judge and at least two Associate Judges. By ordinance the Tribal Council may increase the number of Associate Judges and, subject to the requirement that there always be at least two Associate Judges, it may by similar action decrease the number of Associate Judges; provided, however, there shall be no reduction in the number of Associate Judges if it would have the consequence of removing any incumbent Associate Judge prior to the expiration of his term of office, or prior to his removal by death, resignation or for cause.

b. Each Judge of the Tribal Court shall hold office for a term of two (2) years and shall be eligible for reappointment to successive terms of two (2) years each. A person appointed to fill an existing vacancy created by the death, resignation or removal for cause of a judge shall be appointed initially only for the unexpired portion of the term for which the appointment is made, subject to eligibility for reappointment for the next full term. The first term of the initial judges of the Tribal Court shall commence on the date on which the Code becomes effective, and those terms shall expire two (2) years thereafter. All subsequent terms of judges of the Tribal Court shall expire on the first day of the same month biannually thereafter. If the number of Associate Judges is increased pursuant to an ordinance, to be effective on some date other than the commencement of judicial terms as prescribed by this Code, the additional offices shall be filled by initial appointments as though they were vacancies, for the period of time prior to the commencement of the next full judicial term. Notwithstanding the foregoing, the Tribal Council may temporarily appoint any individual, otherwise eligible to serve as a judge under this Code, as a Chief Judge or Associate Judge of the Tribal Court, for a period of time not to exceed one hundred and eighty (180) days where any emergency situation exists necessitating the appointment of a Tribal Court judge for an interim period to maintain and conduct Tribal Court operations.

[As Amended, December 5, 1974, Ord. No. 26B; July 30, 1980, Ord. No. 26H.]



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c. All judges of the Tribal Court shall be appointed by the Tribal Council, with the Chief Judge specifically appointed by it to that office. By enactment of this Code, the individuals serving immediately prior to its effective date as Chief Judge and Associate Judges of the Tribal Court, as constituted prior to the effective date of this Code, are appointed as Chief Judge and Associate Judges, respectively, of the Tribal Court under this Code.

[As Amended, December 5, 1974, Ord. No. 26B.]

d. A Tribal member, a member of another federally recognized tribe, or other person twenty-five (25) years of age or older shall be eligible to serve as a judge of the Tribal Court, provided that such person should possess substantial legal education or experience; except the following:

(1) Members of the Appeals Court, subject to Subsection (C) of Section 210; persons otherwise employed by the Courts of the Tribes; members of the Tribal Council; law enforcement officials of the Tribes; or persons who have other similar conflicting interests.

(2) Those who have been convicted of a felony, or of a misdemeanor or other criminal offense involving dishonesty or moral turpitude within the last five years, in any Federal, Tribal or State Court.

[As Amended, June 23, 1982, Ord. No. 26N.]

e. The Associate Judges in addition to their general judicial duties, may serve as Juvenile Court Judges. The designation of a Juvenile Court Judge from among the Associate Judges shall be made by the Chief Judge. An incumbent Associate Judge serving as Juvenile Court Judge shall not be relieved of the duties of the latter during his term as Associate Judge, except upon his request to the Chief Judge or upon his removal for cause from the Tribal Court. The Juvenile Court shall be a division of the Tribal Court but it shall conduct its functions and proceedings separately from all other functions and proceedings of the Tribal Court.

f. The Chief Judge and the Associate Judges shall be paid a salary to be determined by the Tribal Council. The salary of any Chief Judge or Associate Judge shall not be reduced during his term of office.

g. No judge shall officiate in any proceeding in which he has any personal interest, or in which any party, witness or counsel is related to him by blood or marriage within the third degree, or in which any party, witness or

counsel stands in the relationship to the judge of ward, attorney, client, employer, employee, landlord, tenant, business associate, creditor or debtor. For these purposes, service as a judge for the Tribes shall not constitute disqualification by virtue of such employment by the Tribes.

h. The Tribal Council by resolution, with the approval of the Chief Judge of the Tribal Court, may appoint additional persons as Deputy Judges of the Tribal Court, except that a member of a recognized Indian Tribe may be appointed to serve as a Deputy Judge. Each appointment shall be personal and it shall not create an office which survives the death, resignation or removal of the appointee. After appointment Deputy Judges shall be responsible to the Chief Judge for the performance of such duties as may be assigned to them by him, and they shall serve during his pleasure, subject to termination of appointment by him in his discretion. A Deputy Judge may be removed from office by the Tribal Council over the objection of the Chief Judge only pursuant to the provisions of this Code for removal of a judge of the Tribal Court for cause.

(1) A Deputy Judge shall perform the duties and functions of a judge of the Tribal Court as may be delegated to him by the Chief Judge, subject to any restrictions or limitations prescribed by the Chief Judge; provided, however, no matter shall be submitted to a Deputy Judge for trial, hearing or other disposition over the prior objection of any party to that matter. The findings, rulings, opinions, and orders of a Deputy Judge in matters properly submitted to him shall have the same force and effect as if made or entered by the Chief Judge or an Associate Judge.

(2) Subject to any restrictions or limitations imposed by the Chief Judge, a Deputy Judge shall have all of the prerogatives and authority of office of an Associate Judge.

(3) The Tribal Council shall prescribe the compensation for each Deputy Judge when he is appointed, which may be by salary, by per diem allowance while he is performing judicial duties, or by other appropriate formula. The rate of compensation for an individual Deputy Judge shall not be reduced during his tenure in that office without the approval of the Chief Judge.

(4) The eligibility of a person to serve as Deputy Judge shall be the same as that prescribed by this Code for any other judge of the Tribal Court, except that a member of a recognized Indian Tribe may be appointed to serve as Deputy Judge, and the provisions of g. of this Section shall be applicable to Deputy Judges.

## COURTS AND PROCEDURE

i. Each person prior to assuming the office of judge of the Tribal Court shall take the following oath before the Chairman of the Tribal Council:

"I swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution and By-Laws of the Colorado River Indian Tribes, and that I will faithfully diligently perform the duties of [Chief Judge, Associate Judge, Deputy Judge, as applicable] of the Tribal Court of the Colorado River Indian Tribes, to the utmost of my ability, with impartiality and without improper favor, to the end that justice may be fully served."

j. The Tribal Council may remove any judge of the Tribal Court for cause based upon any of the following grounds:

(1) Misconduct or incompetence in the performance of his duties as a judge.

(2) Personal conduct, including that which is not in the performance of his duties as a judge, which involves moral turpitude or which brings the prestige of his office or that of the Tribes into public disrepute.

(3) Habitual neglect of his duties as a judge.

(4) Persistent illness or other disability which renders him incapable or otherwise unable to regularly perform his duties as a judge.

Such removal shall be by an affirmative vote of two-thirds (2/3) of the number of members of the Tribal Council present at a valid meeting called for the purpose of considering such removal, provided that the subject judge shall be given a full and fair opportunity to present testimony and evidence in his behalf, and to cross-examine and rebut all witnesses and evidence considered by the Tribal Council in support of removal. The subject judge shall be given not less than five (5) days written notice in advance of the hearing, which notice shall include an itemization of the charges or grounds for removal which are to be considered. Such notice shall be served by registered or certified mail, or delivered personally to him by a party duly authorized by the Tribal Council.

[As Amended, December 5, 1974, Ord. No. 26B.]

Section 202. Procedure.

a. The Tribal Court shall have exclusive jurisdiction for the trial or other original determination of all civil and criminal cases, matters and proceedings, submitted to the courts of the Tribes.

b. Subject to the provisions of this Code for jurisdiction of the Juvenile Court, the Chief Judge shall be responsible for assignment of cases and other matters for determination or disposition to the respective judges of the Tribal Court.

c. The Chief Judge and Associate Judges of the Tribal Court may establish and promulgate rules of procedure for the conduct of its proceedings which are not inconsistent with this Code or other governing and applicable law.

d. All civil and criminal cases shall be commenced by the filing of a written complaint, petition or application with the Judicial Clerk, who shall promptly advise the Chief Judge of its filing. That instrument shall be signed by the party making it, and it shall contain a certificate by that person that the statements and allegations in it are true to the best of his knowledge and belief. Service of process shall be accomplished and jurisdiction of the court over the subject and the other parties named in the instrument shall attach when notice has been served upon each of them, signed by the Judicial Clerk or an Assistant Judicial Clerk, stating when the instrument was filed, accompanied by a copy of the instrument. Written answers, replies or other responses to any such instrument may be filed with the Tribal Court, and served upon the complainant, petitioner, or applicant, but such filing and service shall not be required unless ordered by the Court.

e. The Tribal Court shall hold regular sessions of court at least one (1) day of each week, commencing at 10:00 a.m. Such regular sessions shall be held at the designated courtroom of the Tribes. Special sessions of the Tribal Court may be called by the Chief Judge at any time or, in his absence, by any Associate Judge. Individual judges may conduct trials or other proceedings for individual cases assigned to them at such times as they may designate, and such trials or proceedings may be recessed and reconvened from time-to-time by the judges until they are completed.

f. Except as may be inconsistent with other provisions of this Code, or are otherwise locally inapplicable because they refer to special federal procedures having no counterpart in the Courts of the Tribes, the Federal Rules of Civil Procedure are hereby adopted as, and shall be known as, the "Tribal

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Rules of Civil Procedure," and shall govern the procedure in the Tribal Court in all suits of a civil nature whether cognizable as cases at law or in equity. Said rules shall be construed to secure the just and speedy determination of every action.

[As Amended May 8, 1982, Ord. No. 26 O.]

### Section 203. Juries.

a. All members of the Tribes of the age of eighteen (18) years or older shall be eligible to serve as jurors in all trials before the Tribal Court, except the following:

(1) Judges of the courts of the Tribes, the Judicial Clerk, Assistant Judicial Clerks, members of the Tribal Council, members of the Tribal Police Department, and tribal game wardens.

(2) Those who have been convicted by a court of the United States or of any state of the United States for a felony as a felony is defined by the laws of that jurisdiction.

(3) Those who have been convicted by the Tribal Court for an offense under this Code or any other ordinance of the Tribes for which the penalty could have been imprisonment for sixty (60) days or more, whether or not the sentence included such imprisonment, and whether or not the sentence was suspended.

Upon application of an individual subject to the disqualifications set forth in (2) and (3) above of this Section, the Tribal Council by resolution may permanently waive such disqualification as to the conviction or convictions which were subject to the application and consideration by the Tribal Council. Thereafter the individual shall not be disqualified for service as a juror as a result of those convictions only.

b. The Judicial Clerk shall maintain a current roster of all persons eligible to serve as jurors before the Tribal Court. When requested by any judge of the Tribal Court in preparation for a trial or trials, the Judicial Clerk shall prepare a list of not less than twelve (12) persons from the jury roster to constitute a jury panel. If the number of persons selected to serve on a jury or juries is less than the number required pursuant to Subsection h. of this Section, whether pursuant to Subsections f. and g. of this Section or otherwise, upon being so notified by the Court, the Judicial Clerk shall designate additional persons to the

jury panel. If the number of additional jurors required pursuant to Subsection h. of this Section is one (1), the number of additional persons designated by the Clerk shall be six (6). One additional person more shall be so designated for each additional juror in excess of one (1) that is required pursuant to Subsection h. of this Section. Those designated for the jury panel shall be drawn by random lot or chance by a means designed to insure that no person or group of persons included on the jury roster is either deliberately or consciously excluded from or included on the jury panel. The process of designation of a jury panel shall be conducted by the Judicial Clerk and witnessed by at least two (2) other persons who are eighteen (18) years of age or older.

[As Amended, December 28, 1981, Ord. No. 26K.]

c. Upon a showing satisfactory to the Judicial Clerk, the following persons upon their request may be excluded from the jury roster and jury panels:

(1) Persons who reside outside of the Reservation and more than fifty (50) miles from the nearest exterior boundary of the Reservation.

(2) Employees of the Tribes and the United States.

(3) Persons of such advanced age, or such permanent infirmity or illness, that would cause jury service to be an undue hardship upon them.

(4) Persons burdened by such other circumstances or subject to such other demands that jury service would cause extraordinary hardship for them. Such hardship shall be substantially greater than would be experienced ordinarily by other persons serving as jurors.

d. Each member of a designated jury panel shall be served with a summons, signed by a judge of the Tribal Court, indicating the place and time that he is first to appear for jury service. The notice shall be served by the Judicial Clerk, an assistant Judicial Clerk, a member of the Tribal Police Department, or any other person who may be designated in writing by the Tribal Court. The notice shall be served not less than seventy-two (72) hours prior to the designated time for initial appearance. After such initial appearance, the times and places for attendance by those persons included on the designated jury panel shall be as prescribed by the court.

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e. A person summoned to serve as a juror who has not been excused pursuant to any provision of this Code, or by order of court, who fails to appear where and when summoned, or who having so appeared absents himself therefrom without the permission of the Tribal Court, or who renders himself unfit to commence or continue his duties as a juror, shall be in contempt of court. In addition to the penalties for contempt of court prescribed by this Code, he may be charged by the Tribal Court with any costs incurred by the court and any other persons which resulted from his failure to be present or his misconduct.

f. Each party to a trial which is scheduled shall have the right to obtain a copy of the designated jury panel from which the jury for that trial will be selected not less than five (5) days prior to the commencement of the trial. Any juror may be challenged by any party to a case to be tried on any of the grounds set forth below, and if the challenge is sustained by the Tribal Court, that juror shall be excused from that trial. Each party may question the prospective jurors under oath at the commencement of the trial, subject to such reasonable restrictions as may be imposed by the court in the interests of justice and the expeditious trial of the case. In addition to challenges by parties to a trial, the judge before whom the trial is conducted, on his own motion, may excuse any juror or prospective juror. The grounds for challenge are that a juror:

(1) Is ineligible or disqualified from service as a juror under the provisions of this Code; or

(2) Is of unsound mind, or has such a defect in the abilities of the mind or body as to render him incapable of performing the duties of a juror; or

(3) Is related by blood or marriage within the third degree to any party to the trial, or to any person likely to be called as a witness for any party, or to the counsel for any party; or

(4) Stands in the relationship of guardian, ward, attorney, client, employer, employee, landlord, tenant, creditor, debtor, or business associate of any party in the trial or the counsel for any party; or

(5) Is or has been a party, witness or juror in any other civil or criminal judicial proceeding in which any party or likely witness in the present trial is or has been a party, witness, or juror; or

(6) Has served as a juror or participated as a witness or party in any other trial in which any other person has been subject to trial for the offense or complaint which is the subject of the present trial, or any related offense or complaint; or

(7) Has been a member of a jury formerly sworn to try the same case and whose verdict was set aside or reversed, or which was discharged without a verdict, after the case was submitted to it; or

(8) Is a surety or guarantor of any bond or undertaking of any party or likely witness, or engaged in business with any party or likely witness, or with the person alleged to be injured by the offense charged or on whose complaint the trial was instituted, or with the counsel for any party; or

(9) Is a witness on behalf of any party, or has any personal knowledge of the subject of the trial beyond that which is held generally by the members of the Tribes which may influence his decisions as a juror.

(10) Has a state of mind, knowledge or belief in reference to the subject matter of the trial, or to any party, or to the counsel for any party, or to any person alleged to have been injured by the offense charged or on whose complaint the trial was instituted, which will prevent him from acting with objectivity, impartiality and without prejudice to the substantial rights of any party.

g. In addition to challenges for cause in f. of this Section, at the completion of the qualification of a jury for a trial, prior to any opening statements or presentation of testimony or evidence, each party may preemptively excuse not more than three jurors. The persons replacing them as prospective jurors shall be subject to challenge for cause, and questioning with regard thereto, in the same manner as those originally participating as prospective jurors.

h. All trials of criminal matters shall be by a jury unless a jury has been waived in writing prior to commencement of the trial by the defendant, or by all defendants at a common trial. All trials of civil or non-criminal matters shall be without a jury unless any party to the trial requests a jury not less than five (5) days prior to the scheduled commencement of the trial. Not less than six (6) days prior to the scheduled commencement of any civil or noncriminal trial the Tribal Court shall advise each party to that trial who has not requested a jury and who is not represented by a professional attorney as counsel of his right to request a jury. A jury for any trial shall consist of three persons, and



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at least one designated alternate juror who shall participate in any findings or decisions of the jury only in the event a regular juror is excused by the Tribal Court after commencement of the trial; provided, however, upon written demand of any party to a jury trial filed with the Court not less than five (5) days prior to trial, that trial shall be conducted with six (6) jurors in lieu of three (3), with one (1) designated alternate juror.

i. No person may be convicted of a criminal offense other than by the unanimous decision of all jurors hearing the trial. In each trial of a civil case all findings and decisions of the jury shall be with the concurrence of at least one (1) more than half of the jury if it is composed of six (6) jurors, and of at least two (2) if it is composed of three (3) jurors.

[As Amended December 5, 1974, Ord. No. 26B.]

### Section 204. Arrest, Search and Seizure, and Pre-Sentence Confinement.

a. No member of the Tribal Police Department or other law enforcement officer of the Tribes shall arrest or apprehend any person for an alleged criminal offense except under the following circumstances:

(1) When such offense shall occur in the presence of the arresting officer; or

(2) When the arresting officer shall have probable cause to believe that the person to be arrested has committed such offense; or

(3) When the arresting officer acts pursuant to warrant executed by the Tribal Court commanding him to arrest such person.

b. The Tribal Court shall have the authority to issue Warrants for Arrest. Such warrants may be issued ex parte, without a hearing, but only upon satisfaction of the issuing judge that there is probable, lawful cause for the arrest. Such a warrant may be issued only upon a written complaint filed with the court, bearing the signature of the complainant or complaining witness, based upon reliable information or belief, which charges the commission of a criminal offense. Service of Warrants for Arrest shall be made only by a member of the Tribal Police Department or other duly authorized law enforcement office of the Tribes.

c. No member of the Tribal Police Department nor any other law enforcement officer of the Tribes shall search the person or property of any

person, without the consent of that person, unless the search is incident to a lawful arrest or pursuant to a Warrant for Search and Seizure issued by the Tribal Court. If the search is incident to a lawful arrest the arresting officer may search the person so arrested, and his property then under his direct, immediate control, to locate and prevent the use of weapons and to prevent the destruction of evidence of the commission of a criminal offense.

d. The Tribal Court shall have the authority to issue Warrants for Search and Seizure applicable to the physical person and the premises and property within the Reservation of any person. Such a warrant may be issued ex parte, without a hearing, but only upon satisfaction of the issuing judge that there is probable, lawful cause for the search and seizure. Such a warrant may be issued only upon a written complaint filed with the court, bearing the signature of the complainant or complaining witness, based upon reliable information or belief, which charges the commission of a criminal offense. No warrant for Search and Seizure shall be valid unless it bears the name and description of the person, premises or property to be searched, and describes the articles or property to be seized.

e. Service of Warrants for Search and Seizure, and the conduct of the search and seizure pursuant thereto, shall be only by a member of the Tribal Police Department or other duly authorized law enforcement officer of the Tribes.

f. No person shall be detained, confined, jailed or imprisoned for more than thirty-six (36) hours under the authority of the Tribes and this Code unless pursuant to an order of commitment issued by the Tribal Court. However, if any person is arrested for the alleged commission of a criminal offense and the arrest is made on a Friday, Saturday, Sunday, day before a legal holiday, or legal holiday, he may be held in custody pending commitment until noon of the next regular business day. The Tribal Court shall prescribe forms for temporary commitment for persons held for trial or pending appeal, and for final commitment pursuant to sentence of imprisonment.

#### Section 205. Bail.

a. Any person charged with a criminal offense may be admitted to bail by the Tribal Court at any time prior to final judgment on the charge, or pending appeal on the final judgment to the Appeals Court, in accordance with the provisions of this Section.

b. A person may be admitted to bail by:

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(1) Posting a cash or surety bond in an amount not to exceed One Thousand Dollars (\$1,000.00) which, in the opinion of the Tribal Court, will insure his appearance at all times and places lawfully required; or

(2) In the discretion of the Tribal Court promising in writing to appear before that court or the Appeals Court, as applicable, at all times and places lawfully required; provided, however, the Tribal Court shall not admit a person to bail upon such promise if the court is not reasonably satisfied that the person seeking bail will appear when and where so required.

c. In admitting any person to bail, the Tribal Court may set such terms and conditions therefor as the court, in its discretion, may deem necessary or appropriate.

d. A person shall not be admitted to bail when he is in an intoxicated condition.

e. Violation by any person of any of the terms and conditions of his bail, or his failure to appear when and where lawfully required by them, shall be contempt of court which shall be punished by the court in the manner prescribed by this Code. In addition, the court may order the bond to be forfeited and may issue a warrant for the arrest of the violator.

f. Any cash or surety bond which has not been ordered to be forfeited shall be returned upon final judgment on the charge, including completion of any appeal by the Appeals Court.

### Section 206. Judgment and Sentencing in Criminal Cases.

a. Upon a verdict of not guilty of all charges upon which a defendant has been tried in a criminal case, the court shall forthwith order him released from custody, and the return of any cash or surety bond for his bail which has not been forfeited. Upon any verdict of guilt on any offense so tried, the court shall pronounce judgment and sentence within a reasonable time thereafter.

b. Prior to adjudging a sentence for conviction of a criminal offense, the court shall afford a reasonable opportunity to the convicted person to present information or matters of extenuation and mitigation which may not have been disclosed at the trial, including statements by any other persons. The court may also request and receive pertinent reports, advice and recommendations from any other person or agency which may assist it in adjudging an appropriate sentence; provided, however, prior to sentencing the convicted

person shall be advised of the content, identity, and source of any such report, advice or recommendation and he shall be afforded a reasonable opportunity to comment upon or rebut it.

c. Upon a judgment sentencing a convicted person to imprisonment, he shall be given signed copies of the judgment and of the order of commitment. The person taking custody of the convicted person shall receive similar copies, and he shall sign a receipt acknowledging custody which shall be filed in the records of the Tribal Court.

d. Upon judgment sentencing a convicted person to a fine, he shall be given a signed copy of the judgment, which shall direct him to make payment to the Judicial Clerk in accordance with the terms of payment to be prescribed by the court. The court may order the fine to be paid in installments of a schedule to be specified by the court. Willful or negligent failure to pay a fine in accordance with the terms of the sentence shall be contempt of the Tribal Court which shall be punished by the court in the manner prescribed by this Code. In support of enforcement and satisfaction of its judgments of fines, the Tribal Court shall have the authority to order any other persons within its jurisdiction to deliver or surrender to the Judicial Clerk or the Tribal Police Department any money, goods or other property in their possession or under their control owned by or subject to the claim of a defaulting party to any judgment; provided, however, that such orders shall be issued only following notice to the defaulting party and a hearing at which he is determined to have been in default. The provisions of this Section shall be subject to any restrictions which may exist under the laws of the United States.

e. In addition to any sentence, the court may order a convicted person to pay the reasonable costs incurred by the Tribal Court, Judicial Clerk, Tribal Police Department, and any other tribal agency, which is directly attributable to the case in which he was convicted, but not to include any part of the general expense of operation of such offices or agencies.

f. At the time of adjudging a sentence, or at any time thereafter prior to the completion of satisfaction of a sentence, whether of a fine, imprisonment or both, the Tribal Court may suspend all or any unsatisfied portion of that sentence. Such suspension shall be upon such reasonable terms and conditions as seem necessary or appropriate to the court.

(1) The period of suspension of all or any portion of a sentence shall not be longer than six (6) years from and after the date of original sentence, and if at that time the convicted person has complied fully with all of

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the terms and provisions of the suspension, the sentence shall be considered satisfied and discharged. The Tribal Court shall then issue a Certificate of Discharge to that effect.

(2) Appropriate considerations for suspension of a sentence include, but are not limited to, the prior record of a convicted person, his background and character, his financial condition, his family and employment obligations, facts of extenuation or mitigation of the offense for which he was convicted, the severity of the offense and the degree to which any other person was injured or damaged by it, the apparent permanence of his residency within the Reservation, his sense of pertinence, and other relevant circumstances. As conditions of suspension of a sentence, the court may require, among other things, that the convicted person conduct himself in any one or more of the following ways, as appropriate:

- (a) Satisfactorily meet his responsibilities for the care and support of his family;
- (b) Perform labor or services for the benefit of the Tribes;
- (c) Undergo available medical or psychiatric treatment;
- (d) Satisfactorily participate in a rehabilitation program; such as driver education or Alcoholics Anonymous;
- (e) Not have in his possession any firearm or other dangerous weapon;
- (f) Make restitution or reparation for any damage, loss or injury caused by his offense;
- (g) Not associate with individuals or groups of individuals designated by the court;
- (h) Place himself under the supervision and report to such other person as may be designated by the court;
- (i) Restrict himself to or from such areas or places as may be designated by the court;

(j) Not commit any offense under this Code or the ordinances of the Tribes, nor under the criminal or traffic laws of the United States, any state, or any subdivision thereof;

(k) Not operate a motor vehicle;

(l) Maintain a daily schedule as specified by the court.

g. Any convicted person whose sentence has been suspended, while that suspension remains in effect, who is accused of violating any of the terms or conditions of the suspension shall, upon notice, be given a hearing before the Tribal Court. If the court finds that the terms and conditions of the suspension have been violated, it may revoke the suspension and order the sentence immediately reinstated with payment of the fine or imprisonment as applicable. No sentence may be increased in severity nor may its nature or character be changed as the result of the revocation of its suspension.

h. All decisions of the Court, including those made prior to enactment of this provision, are memorandum decisions that shall not be regarded as opinions of binding precedent in any other cases.

[As amended on December 14, 1999, by Ordinance 99-3.]

#### Section 207. Judgments in Civil Cases.

a. Upon a finding of liability by a jury or the Tribal Court a judgment based upon the law and facts established at the trial may include an award of money damages, an order to surrender property, an order to make restitution, an order to perform acts or to refrain from designated conduct, or an order granting such other remedies or relief which may be appropriate and legally permissible.

b. The Tribal Court may assess reasonable court costs of civil litigation against any one or more of the parties to a case as seems appropriate in the discretion of the court. Such an assessment shall be limited to those costs representing the actual expenses incurred by the court, Judicial Clerk, or other tribal agency directly attributable to that case, and the direct, reasonable expenses of the parties incurred for the litigation.

c. Failure of a party to comply with a civil judgment directed against him shall entitle the party intended to be benefited by the judgment to an order of the Tribal Court, upon notice and hearing, directing the Judicial Clerk of the

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Tribal Police Department to take into custody any money, goods, or other property of the defaulting party and, in accordance with court order, to deliver the same to the party entitled to the benefit of the judgment, but not to exceed in value any amount owed under the judgment. The willful or negligent failure of a party to comply with the terms of a judgment directed against him, with which he is able to comply, shall be contempt of the Tribal Court which shall be punished by the court in the manner prescribed by this Code. In support of enforcement and satisfaction of its judgments, the Tribal Court shall have the authority to order any other person within its jurisdiction to deliver or surrender to the Judicial Clerk or the Tribal Police Department any money, goods or other property in their possession or under their control owned by or subject to the claim of a defaulting party to any judgment; provided, however, that such orders shall be issued only following notice to the defaulting party and a hearing at which he is determined to have been in default. The provisions of this Section shall be subject to any restrictions which may exist under the laws of the United States.

d. All decisions of the Court, including those made prior to enactment of this provision, are memorandum decisions that shall not be regarded as opinions of binding precedent in other cases.

[As amended on December 14, 1999, by Ordinance 99-3.]

### Section 208. Property.

a. All money or other property received by the Tribal Court or the Judicial Clerk for payment of their costs or for payment of fines shall be the property of the Tribes and shall be the subject of such accounting procedure and disposition as may be designated by the Tribal Council.

b. The disposition of all other money, goods or property of any person taken into the custody of the Tribal Court, Judicial Clerk or Tribal Police Department pursuant to this Code or any other ordinance of the Tribes shall be determined by the Tribal Court, with hearing and notice to parties who may have any interest therein if appropriate.

(1) Upon satisfactory proof of ownership entitlement thereto, the court shall order such property to be delivered to the owner or persons entitled thereto except in the following circumstances:

(a) If such property is required as evidence in any case pending before the Tribal Court or the Appeals Court, such property shall be

retained by the Judicial Clerk or Tribal Court, or by the Tribal Police Department subject to the direction of the court, until final judgment and determination of the case, including appeal.

(b) If possession of such property is unlawful, it shall be declared by the court to be tribal property and transferred to the Tribal Council for disposition.

(2) Any property the possession of which, or the manner of its possession, constitutes a criminal offense under any provision of this Code or any other ordinance of the Tribes, upon conviction of any person of such an offense and a determination that the property is owned by him, shall become the property of the Tribes. Upon a final determination of such case the property shall be transferred to the Tribal Council for disposition.

c. Any property to which the owner or other person is lawfully entitled to possess, which is in the possession of the Tribal Police Department, the Judicial Clerk, or the Tribal Court but which is not claimed by the owner or such person within six (6) months after it has been determined that he is entitled to it, and he has been given notice thereof, shall become the property of the Tribes. Such property shall be transferred to the Tribal Council for disposition.

d. The Judicial Clerk shall keep records of all property taken into the custody of the Tribal Court and the Judicial Clerk, including receipts for transfer relinquishment of it.

#### Section 209. Extradition.

a. Any person residing, located or present within the Reservation for whose arrest a warrant has been issued by any court of any state of the United States or by the duly constituted tribal court of any other organized Indian tribe or reservation, for the alleged commission of an offense beyond the jurisdiction of the courts of the Tribes, may be extradited to the jurisdiction of that other court as provided herein.

b. A verified copy of the warrant for arrest, under the signature and seal of the authorities of such other court, may be presented to the Judicial Clerk, and upon the information stated in the warrant a request for extradition shall be prepared, with the assistance of the Judicial Clerk, and signed by an authorized representative of the jurisdiction seeking extradition. The Judicial Clerk shall present the request to the Tribal Court.



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c. The Tribal Court shall promptly examine the warrant and request, and shall consider such other relevant information as may be presented to the court by any person. The Tribal Court shall make a preliminary determination of the apparent validity of the warrant.

d. Upon preliminary determination by the Tribal Court of the apparent validity of the warrant, the Tribal Court shall issue a Warrant for Arrest of the alleged offender. Upon arrest of that person pursuant to the Warrant for Arrest issued by the Tribal Court, that person shall be brought before the Tribal Court for a hearing not less than five (5) days after the arrest. Bail may be allowed pending hearing. The court shall conduct a hearing to determine the validity of the warrant issued by the jurisdiction seeking extradition and whether the person who has been arrested is the same person charged in that warrant, and to consider such other relevant circumstances as may be presented to the court. Upon a determination that the warrant from the jurisdiction seeking extradition is valid and that the person in custody before the Tribal Court is the person charged in that warrant, and after considering all other matters presented to the Tribal Court, the court may execute an order, authorizing and directing the removal of the alleged offender by the appropriate officials of the jurisdiction seeking extradition. If the Tribal Court executes such an order, the Judicial Clerk shall then notify the jurisdiction seeking extradition that the alleged offender is in custody, and that he may be removed within five (5) days. If an appropriate official of the jurisdiction seeking extradition does not appear within the allotted time the person in custody shall be released, and he shall not be taken into custody again for the same charge except upon the issuance of a new warrant by the jurisdiction which originally sought extradition.

e. In no case shall a warrant for arrest from the court of another jurisdiction be honored if that jurisdiction, by its laws, rules, or practices, prohibits or refuses to provide reciprocal extradition of persons who may be subject to Warrants for Arrest issued by the Tribal Court.

f. If an order of the Tribal Court authorizing extradition is entered, and, upon appeal to the Appeals Court that order is approved or confirmed, the Tribal Council in its discretion shall have the authority upon the vote of not less than two-thirds (2/3) of its total membership, to direct that the order for extradition be stayed indefinitely, or for such time as may be prescribed by the Tribal Council. Bail may be allowed during such stay, in such amount and on such terms as may be prescribed by the Tribal Court.

CHAPTER B. APPEALS COURT

Section 210. General Provisions.

a. There shall be an Appeals Court consisting of a Chief Judge and two Associate Judges.

b. The Chief Judge of the Appeals Court shall be appointed by the Tribal Council. He shall hold office for a term of two (2) years and shall be eligible for reappointment to successive terms of two (2) years each. The term of office shall commence on the first day of June of even numbered years, and shall end at the last day of May of even numbered years. A person appointed to fill an existing vacancy created by the death, resignation or removal for cause of a Chief Judge shall be appointed initially only for unexpired portion of the term for which the appointment is made, subject to eligibility for reappointment for the next full term. Whenever the office of Chief Judge shall be vacant, or the Chief Judge shall be disqualified to sit on a particular case, the Tribal Council may appoint an acting Chief Judge to sit until the vacancy is filled, or some other lesser term, and shall appoint an acting Chief Judge to sit on the case with respect to which the Chief Judge is disqualified.

c. Associate Judges shall be designated by the Chief Judge of the Appeals Court for each case presented to the Appeals Court as follows:

(1) Judges of the Tribal Court shall be designated if they did not preside over or participate in the case under appeal, and have no prior knowledge of the case.

(2) If the number of Judges designated pursuant to subsection c. (1) is insufficient, Deputy Judges of the Tribal Court shall be designated if they did not preside over or participate in the case under appeal, and have no prior knowledge of the case.

(3) If the number of Judges designated pursuant to subsections c. (1) and c. (2) of this section is insufficient, the Tribal Council shall appoint as Auxiliary Judges that number more judges as are required to be designated. Such Auxiliary Judges shall thereupon be so designated by the Chief Judge of the Appeals Court. Such appointment as an Auxiliary Judge shall be only for the case under appeal, unless the Council shall state a longer time, not to exceed two years.

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d. The eligibility and qualification of a person to serve as a member of the Appeals Court shall be the same as those prescribed for judges of the Tribal Court, except for the exclusion of members of the Appeals Court itself, and except further that such judges may be required to have graduated from an accredited law school.

(1) Prior to the existence of a vacancy, through disqualification or otherwise, the Tribal Council may designate those persons who shall be appointed as acting Chief Judge or as Auxiliary Judges pursuant to subsection b., and c. (3) of this section. Upon the creation of a vacancy, such persons shall automatically be deemed to have been appointed pursuant to subsections b., or c. (3), as the case may be. If a person has been so designated to sit as acting Chief Judge, the Chief Judge of the Appeals Court shall notify such person each time he is required to sit.

(2) The eligibility and qualification of a person to serve as a member of the Appeals Court shall be the same as those prescribed for judges of the Tribal Court, except for the exclusion of members of the Appeals Court itself, and except further that such judges shall be required to have graduated from an accredited law school.

e. The judges of the Appeals Court shall be paid a salary or otherwise compensated in such amounts and in such manner as may be determined by the Tribal Council. Compensation may be by salary, by per diem allowance while they are performing judicial duties, or by other appropriate formula. The rate and method of compensation of the judges of the Appeals Court shall not be reduced during their term of office.

f. The Tribal Council may remove any judge of the Appeals Court for cause on any of the grounds and in accordance with the procedure prescribed in this Code for removal of a judge of the Tribal Court.

g. No judge of the Appeals Court shall participate in any proceeding if he has any interest therein, or any relationship with any person, of the nature which would constitute disqualification of a judge of the Tribal Court from officiating in any proceeding before him, as specified in this Code.

[As Amended October 7, 1981, Ord. No. 26], §§ 1-5; May 8, 1982, Ord. No. 26N, §§ 1-2; June 23, 1982, Ord. No. 26N, § 2(d)(2).]

Section 211. Procedure.

a. The Appeals Court shall have only appellate jurisdiction over criminal and civil matters. Any party to any final order or final judgment of the Tribal Court shall have the right to petition for appeal of that order or judgment to the Appeals Court.

(1) A party wishing to appeal shall file a petition for appeal with the Judicial Clerk within twenty (20) days after entry by the Tribal Court of the final order or final judgment from which he seeks appeal. The petition shall be accompanied by a filing fee as may be designated unless there is submitted an affidavit by the appealing party that he is without funds to pay the filing fee. In that event the filing fee shall be waived pending appeal. The Appeals Court, if it finds that the appellant is without funds to pay the filing fee, shall order that it be permanently waived.

(2) The petition for appeal shall state the reasons for the appeal which shall be limited to the following:

(a) Lack of jurisdiction of the Tribal Court.

(b) Irregularities or improprieties in the proceedings, or by the Tribal Court, the jury, any witness, or any party substantially prejudicial to the rights of petitioner.

(c) Any ruling, order, decision of abuse of discretion which prevented a fair hearing or trial.

(d) Newly discovered material evidence which could not, with reasonable care, have been produced at the trial or hearing.

(e) Insufficient evidence to support the verdict, decision, order or judgment of the jury or Tribal Court.

(f) An error of law substantially prejudicial to the rights of the appellant.

(3) Upon receipt of a petition for appeal, the Judicial Clerk shall promptly notify the Appeals Court, which shall convene en banc to review the petition. If it appears to the Appeals Court, acting unanimously, that the petition for appeal on its face, under a liberal review in favor of the petitioner, has no merit or fails to state any cause for a hearing, the petition shall be

## COURTS AND PROCEDURE

denied. The Appeals Court shall state in writing its order of denial and the reasons therefore, which order shall direct that the order or final judgment of the Tribal Court be executed. Copies of the order of the Appeals Court shall be served by the Judicial Clerk upon all parties to the proceeding in the Tribal Court. If it appears to one or more members of the Appeals Court that the petition may have merit, it shall grant the petition and set the matter for hearing, on a date no sooner than will permit all parties to the proceeding in the Tribal Court to have at least twenty (20) days notice of the hearing and no later than forty-five (45) days after the petition is granted:

(a) Upon petition for appeal being granted and set for hearing, the Judicial Clerk shall give notice of that hearing to all persons who were parties to the proceeding in the Tribal Court, such notice to be given not less than twenty (20) days prior to the hearing. The notice to each party other than the appellant will include a copy of the petition for appeal;

(b) Any party to an appeal shall be permitted, but not required, to file a written brief with the Appeals Court prior to the hearing, pertaining to any matter or issue included within the petition for appeal. However, if any such brief is filed, copies of it shall be served upon all other parties to the appeal not less than two (2) days prior to the hearing. It shall be served upon such parties in the same manner as prescribed in this Code for the giving of notices.

b. At any hearing of an appeal, the Judicial Clerk will make available to the Appeals Court all records and materials in the file of the Tribal Court in the case from which the appeal is taken, and the Appeals Court shall consider them. In addition, each party to the appeal shall be granted an opportunity to present an argument on all issues raised by the petition for appeal, and to discuss and comment upon all evidence presented to or considered by the Tribal Court and all orders and findings of the Tribal Court, insofar as they pertain to those issues. The Appeals Court shall not conduct a new trial; witnesses shall not appear before it to give testimony; no new evidence shall be presented to it; and the appeal shall be limited to those issues raised by the petition for appeal.

c. In deciding any appeal, the Appeals Court shall prepare a written opinion and decision, setting forth its conclusions and orders, and the reasons therefor. Its decisions shall be in the form of an order of one of the following:

(1) That the order or judgment of the Tribal Court be affirmed.

(2) That the decision of the Tribal Court be reversed, as a matter of law, and the case dismissed.

(3) That the sentence in a criminal case be reduced, for the reason that it exceeds the legally permissible sentence or is so excessive as to constitute an abuse of discretion.

(4) That the form or amount of damages or relief awarded in a civil case by the Tribal Court be reduced, increased, or modified for the reason that the award constitutes an error of law.

(5) That the order or judgment of the Tribal Court be reversed and the case remanded to the Tribal Court for the correction of errors, deficiencies, irregularities, improprieties, or abuse of discretion, or for a new trial on each issue which was the subject of such a defect.

d. All decisions of the Appeals Court, including those made prior to enactment of this provision, are memorandum decisions that shall not be regarded as opinions of binding precedent in any other cases.

e. The Chief Judge and the Associate Judges of the Appeals Court may establish and promulgate rules of procedure for the conduct of its proceedings, which are not inconsistent with this Code or other governing and applicable law.

f. The Appeals Court shall hear, consider and rule upon all appeals en blanc, except for those judges who are disqualified. Except for the granting of a petition for appeal as provided in this Code, all orders, opinions and decisions of the Appeals Court shall be made upon the concurrence of a majority of the judges of that court hearing the appeal. If by reason of vacancies or disqualification the Appeals Court hearing an appeal consists of an even number, or if by ordinance of the Tribal Council the number of judges of the Appeals Court is increased and consists of an even number, an even division of opinion shall be affirmative of the order or judgment of the Tribal court.

g. Except as may be inconsistent with other provisions of this Code, or are otherwise locally inapplicable because they refer to special federal procedures having no counterpart in the Courts of the Tribes, the Federal Rules of Appellate Procedure are hereby adopted as, and shall be known as the "Tribal Rules of Appellate Procedure," and shall govern the procedure in the Appeals Court. Said rules shall be construed to secure the just and speedy determination of every appellate proceeding.

[As amended on December 14, 1999, by Ordinance 99-3.]

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## LAW AND ORDER CODE

### ARTICLE III

#### CRIMINAL OFFENSES

[NOTE: Except as otherwise stated, the provisions of Article III of the Law and Order Code were enacted on June 22, 1974 by Ordinance No. 26.]

#### CHAPTER A. GENERAL PROVISIONS

##### Section 301. General.

The offenses specified in this Article III, and those provided for in other Ordinances of the Tribal Council, constitute forbidden criminal conduct against the Colorado River Indian Tribes. Persons committing such offenses may be tried and punished by the Courts of the Tribes as provided for by this Code; provided, however, such jurisdiction, whether or not exercised, shall not affect the power or authority of any other courts, including those of the United States, which may have jurisdiction.

##### Section 302. Penalties.

Except for offenses under Article VI of this Code to which this sentence shall not apply, any offense under any Ordinance of the Tribal Council for which no penalty is otherwise specifically provided may be punished by imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both. Upon conviction of, or plea of guilty or no contest to, any offense specified by this Code or other Ordinance enacted by the Tribal Council for which imprisonment may be imposed, unless imprisonment is mandatory, the court in its discretion, with the concurrence of the offender, may:

a. Order the offender to perform labor for the Tribes without compensation for a number of days not to exceed the maximum period of imprisonment which could be imposed; or

b. Order the offender imprisoned and upon release from imprisonment to perform such labor, provided that the total number of days of imprisonment and performance of labor together shall not exceed the maximum period of imprisonment which could be imposed.

If performance of labor is ordered it shall be upon the condition that it be diligently and satisfactorily performed upon penalty for noncompliance of imposition of imprisonment. If such condition of performance of labor is not met, the time when such labor was to have been performed shall not be counted in determining the length of maximum duration of imprisonment.

##### Section 303. Statute of Limitation.

Subject to other express limitations elsewhere specified in this Code, no person shall be prosecuted; tried, or punished for any criminal offense unless

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a complaint thereof, designating that person as the alleged offender, is filed within one (1) year after discovery that the offense was committed by someone. When an offense is based upon a series of acts performed at different times the period of limitation prescribed by this Section commences at the time when the last discovered act is committed.

### Section 304. Pleas.

Every person charged with a criminal offense shall enter a plea of guilty or not guilty, or, with the consent of the court a plea of no contest. If a person charged with an offense refuses or fails to enter a plea, including such failure or refusal after a tender of a no contest plea is rejected by the court, the court shall enter a plea of not guilty on behalf of that person.

a. No plea of guilty shall be accepted by the court until the court shall have advised the defendant of the maximum and minimum penalties that the court may impose, that the defendant shall be deemed to have waived his right to trial on all issues, and that the defendant shall be deemed to be admitting his commission of the offense. The court shall not accept a plea of guilty, but shall enter a plea of not guilty on behalf of the defendant, if the court has cause to believe that the defendant does not understand the significance of his tendered plea of guilty.

b. The acceptance or rejection by the court of a tendered plea of no contest shall be within the discretion of the court. Prior to the acceptance by the court of a plea of no contest, the court shall advise the defendant as to the maximum and minimum penalties that the court may impose and his right to trial on all issues. Any person whose plea of no contest is accepted by the court shall be subject to the imposition of all penalties and consequences provided by this Code applicable to a person who has been convicted or pled guilty to such an offense.

### Section 305. Double Jeopardy.

If a criminal prosecution is for a violation of the same provision of law and is based upon the same facts as a former prosecution by the Courts of the Tribes, it is barred by the former prosecution if the former prosecution resulted in an acquittal, or if the former prosecution proceeded on the basis of a plea of guilty or no contest, or if the former prosecution resulted in a conviction which has not been reversed or vacated.

### Section 306. Presumption of Innocence.

Every person is presumed innocent of any offense with which he is charged until proven guilty. No person shall be convicted of any offense unless his guilt thereof, as to each material element thereof, is proved beyond a reasonable doubt.

## CRIMINAL OFFENSES

### Section 307. Speedy Trial.

a. Except as provided below in this Section, if a defendant is to brought to trial on the issues raised by a complaint of a criminal offense within one (1) year from the date of filing of said complaint, the pending charge shall be dismissed, and the defendant shall not again be the subject of a complaint for the same alleged offense, or for another alleged offense based upon the same act or series of acts arising out of the same criminal conduct or episode.

(1) The time limitation imposed by the foregoing provision of this subsection a. of this section shall be tolled while the alleged offender is absent from the Reservation or is not amenable to the process or jurisdiction of the Courts of the Tribes and the duration of such absence or nonamenability shall be excluded from the computation of the time within which the trial must be commenced.

(2) The period within which a trial must be commenced under the provisions of this subsection a., of this section, does not include any period in which a prosecution in any court of any jurisdiction is pending against the defendant for the same conduct, regardless of the disposition of such pending prosecution.

b. Except as otherwise provided below in this section, if a defendant is not brought to trial on the issues raised by a complaint of a criminal offense within six (6) months from the date of the entry of a plea of not guilty, he shall be discharged from custody if he has not been admitted to bail, and, whether in custody or on bail, the pending charge shall be dismissed, and the defendant shall not again be the subject of a complaint for the same alleged offense, or for another alleged offense based upon the same act or series of acts arising out of the same criminal conduct or episode.

c. The respective requirements for a speedy trial, and the respective periods of time for commencement of trial under either of subsections a. or b. of this Section shall be subject to or modified by, including extension or exclusion of periods of time, by the following further provisions:

(1) If trial results in conviction which is reversed on appeal, any new trial must be commenced within six (6) months from the date of the final decision on appeal.

(2) If a trial date has been fixed by the court, and thereafter the defendant requests and is granted a continuance for trial, the period within which the trial shall be commenced is extended by the number of days intervening between the granting of such continuance and the date to which trial is continued.

(3) If a trial date has been fixed by the court, and thereafter the person charged with responsibility under this Code for the prosecution of the trial requests and is granted a continuance, the time is not thereby extended within which the trial shall be commenced unless the defendant expressly

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agrees to the continuance. The time for commencement of trial, in the event of such agreement, is extended by the number of days intervening between the granting of such continuance and the date to which trial is continued.

(4) The requirement under this Section for a trial within a specified period of time shall be deemed to be satisfied if the trial commences within the specified period, even though its conduct may extend beyond the specified period for commencement, provided that it conduct thereafter is with reasonable diligence by the prosecution.

(5) To be entitled to a dismissal under this Section, a defendant must move for dismissal prior to the commencement of the trial. Failure so to move is a waiver of the defendant's rights under this Section.

(6) In computing the time within which a defendant shall be brought to trial as provided in this Section, the following periods of time shall be excluded:

(a) Any period during which the defendant is incompetent to stand trial, or is unable to appear by reason of illness or physical disability;

(b) The period of delay caused by an interlocutory appeal whether commenced by the defendant or by the prosecution;

(c) A reasonable period of delay when the defendant is joined for trial with a co-defendant as to whom the time for trial has not expired and there is good cause for not granting a severance;

(d) The period of delay resulting from the voluntary absence or unavailability of the defendant; however, a defendant shall be considered unavailable whenever his whereabouts are known but his presence for trial cannot be obtained, or he resists being returned to the Reservation for trial;

(e) The period of delay caused by and mistrial, not to exceed three (3) months for each mistrial;

(f) The period of any delay caused at the instance of the defendant;

(g) The period of delay not exceeding six (6) months resulting from a continuance granted at the request of the person or party prosecuting the case, without the consent of the defendant, if the continuance is granted because of the unavailability of evidence material to the prosecutor's case, when the prosecutor has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will be available at the later date.

## CRIMINAL OFFENSES

### Section 308. Affirmative Defense.

Unless the prosecution evidence raises an issue of affirmative defense to an alleged offense, the defendant, to raise the issue, must present some credible evidence on that issue. If the issue involved in an affirmative defense is raised, then the guilt of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the offense. Affirmative defenses include but are not necessarily limited to legal justification; lawful authority; justifiable and reasonable defense of self, a third person or property; and those specified elsewhere in this Article III.

### Section 309. Multiple Counts.

When the conduct of a defendant may establish the commission of more than one offense, the defendant may be prosecuted for each such offense. He may not be convicted of more than one offense if:

- a. One offense consists only of an attempt to commit the other, or
- b. Inconsistent findings of fact are required to establish the commission of the offenses; or
- c. The offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct; or
- d. The offense is defined as a continuing course of conduct and the defendant's course of conduct was uninterrupted, unless the law provides that specific periods or instances of such conduct constitute separate offenses.

If the same conduct is defined as an offense in different Ordinances of the Tribal Council or in different sections of this Code, the offender may be prosecuted under any one or all of such sections or Ordinances subject to the limitations provided by this Section. It shall be immaterial to such prosecution that one of the enactments or sections provides a lesser penalty than another, or was enacted at a later date than another unless the later section or enactment specifically repeals the earlier.

### Section 310. Intoxication.

Intoxication of the defendant is not a defense to the charge of a criminal offense, but in any prosecution for an offense evidence of intoxication of the defendant may be offered by the defendant whenever it is relevant to negative the existence of a specific intent if such intent is an element of the crime charged. "Intoxication" as used in this Section means a disturbance of mental or physical capacities resulting from the introduction of a substance into the body including, but not limited to, alcohol or drugs.

Section 311. Complicity.

A person is legally accountable as principal for the behavior of another constituting a criminal offense if, with the intent to promote or facilitate the act or conduct constituting commission of the offense, he aids, abets, or advises such other person in planning or committing the offense.

Section 312. Federal Standards.

Insofar as they are not inconsistent with (a) this Code or other Ordinances of the Tribal Council, (b) the lawful tradition and policies of the Tribes and the Courts of the Tribes, or (c) other governing or applicable law, the standards of, (i) statutory interpretation, (ii) admissibility of evidence, and (iii) criminal judicial procedure, including determination of the elements of an offense, of the federal courts of the United States may be referred to by the Courts of the Tribes to aid in the interpretation and application of this Article III, and in the conduct of criminal procedures under this Code. Nothing contained in this Section shall be deemed to deprive the Courts of the Tribes or the Tribal Council from establishing, by decision or enactment, such other or differing standards as they may deem appropriate, subject always to any limitations, restrictions or exceptions imposed by and under the authority of the Constitution or By-Laws of the Tribes, or the Constitution or laws of the United States.

CHAPTER B. INCHOATE OFFENSES

Section 313. Criminal Attempt.

A person commits the separate offense of criminal attempt if he intentionally engages in conduct constituting a substantial step toward commission of another specified offense. A substantial step is any conduct, whether act, omission, or possession which is corroborative of the actor's intent to commit the other offense. Factual or legal impossibility of committing the other offense is not a defense to a charge of criminal attempt if the other offense would have been committed had the attendant circumstances been as the actor believed them to be. A person who engages in conduct intending to aid another to commit any offense commits criminal attempt if the conduct would establish his complicity under Section 311, Chapter A, of this Article III were the offense to be committed by the other person, even if the other person is not guilty of committing or attempting the offense. A person guilty of criminal attempt may be sentenced to such term of imprisonment, or such fine, or both, as may be provided for the other offense, whether or not committed, of which the attempt was made.

[As Amended January 11, 1992, Ord. No. 92-1, § 2.]

Section 314. Conspiracy.

A person commits the offense of criminal conspiracy if, with the intent to promote or facilitate the commission of another specified offense, he agrees

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with another person or persons that they, or one or more of them, will engage in conduct which constitutes such other offense or an attempt to commit such other offense, or if he agrees to aid such other person or persons in the planning or commission of such other offense or of an attempt to commit such other offense.

a. No person may be convicted of a conspiracy to commit an offense unless an overt act in pursuance of such conspiracy is proved to have been done by him or by a person with whom he conspired.

b. If a person knows that one with whom he conspires to commit an offense has conspired with another person or persons to commit the same offense, he is guilty of criminal conspiracy to commit such other offense with such other person or persons, whether or not he knows their identity.

A person guilty of criminal conspiracy may be sentenced to such term of imprisonment, or such fine, or both, as may be provided for the offense which was the subject of the conspiracy, whether or not such other offense was committed.

[As Amended January 11, 1991, Ord. No. 92-1, § 2.]

### Section 315. Solicitation.

Except as to authorized acts of persons authorized by law to investigate and detect the commission of offense by others, a person is guilty of criminal solicitation if he commands, induces, entreats, or otherwise attempts to persuade another person to commit an offense, whether as principal or accomplice, with intent to promote or facilitate the commission of that crime. It is no defense to a prosecution under this Section that the person solicited could not commit or could not be guilty of the offense because of lack of responsibility or culpability, or other incapacity. A person guilty of criminal solicitation may be sentenced to such term of imprisonment, or such fine, or both, as may be provided for the offense which was the subject of the solicitation whether or not it was committed.

[As Amended January 11, 1991, Ord. No. 92-1, § 2.]

## CHAPTER C. OFFENSES AGAINST PERSONS

### Section 316. Criminal Homicide.

A person commits the offense of criminal homicide if:

a. He intentionally causes the death of another person without legal justification; or

b. With intent to cause bodily injury to a person without legal justification, or to assault, threaten, menace, intimidate, or endanger any person he causes the death of that person or any other person; or

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c. Acting either alone or with one or more persons, he voluntarily commits or participates in the commission or attempt to commit arson, robbery, burglary, kidnapping, assault, or unlawful sexual behavior, and in the course of or in furtherance of the crime that is being committed or attempted, or of immediate flight therefrom by anyone, the death of a person is caused; or

d. He recklessly or by gross negligence causes the death of another person; or

e. Under circumstances manifesting indifference to the value of human life, he intentionally engages in conduct which creates significant risk of injury or death to a person, and thereby causes the death of another person; or

f. He operates a motor vehicle in a reckless or grossly negligent manner, or while intoxicated, or while under the influence of alcohol, drug or other intoxicant, and such conduct causes the death of another person.

A person guilty of criminal homicide may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

### Section 317. Assault.

A person commits the offense of assault if:

a. He intentionally causes bodily injury to another person without legal justification; or

b. With intent to assault, threaten, menace, intimidate, or endanger any person he causes bodily injury to another person; or

c. Acting either alone or with one or more persons, he voluntarily commits or participates in the commission or attempt to commit criminal homicide, arson, robbery, burglary, kidnapping, or unlawful sexual behavior, and in the course of or in furtherance of the crime that is being committed or attempted, or of immediate flight therefrom by anyone, bodily injury to another person is caused; or

d. If he recklessly or by gross negligence causes bodily injury to another person; or

e. Under circumstances manifesting indifference to the value of human life, he intentionally engages in conduct which creates significant risk of injury to a person, and thereby causes bodily injury to another person; or

f. He operates a motor vehicle in a reckless or grossly negligent manner, or while intoxicated, or while under the influence of alcohol, drug or other intoxicant, and such conduct causes bodily injury to another person.



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A person guilty of assault not involving the use of a deadly weapon or a dangerous instrument, and where serious physical injury does not occur, may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both. A person guilty of assault involving the use of a deadly weapon or a dangerous instrument, or where serious physical injury occurs, may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 3.]

### Section 318. Threats or Endangerment.

A person commits an offense if he:

- a. By any threat or physical action, intentionally places or attempts to place another person in fear of bodily injury; or
- b. Without lawful authority or legal justification threatens to confine, restrain, or to cause bodily harm to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an act or refrain from doing a lawful act; or
- c. Recklessly engages in conduct which creates a significant risk of bodily injury to another person.

A person guilty of an offense under this Section may be sentenced to imprisonment for a period of not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

### Section 319. Kidnapping.

A person commits the offense of kidnapping if:

- a. He forcibly or otherwise seizes and carries any person from one place to another without his consent and without legal justification or lawful authority; or
- b. He entices, takes, or decoys away any child under the age of eighteen (18) years not his own, with intent to keep or conceal the child from its parent, guardian or lawful custodian; or
- c. He intentionally confines, restrains or detains another without the other's consent and without legal justification or lawful authority; or
- d. He is a natural, adoptive or foster parent of a child under the age of eighteen (18) years, but knowing or having reasonable cause to know that he has no privilege to do so, he takes or entices such child from the custody of another parent, guardian or lawful custodian.

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A person guilty of kidnapping may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 320. Unlawful Sexual Behavior.

a. Rape. Any male who has sexual intercourse with a female person not his wife commits the offense of rape if:

(1) He compels her to submit by force, or by threat of death, bodily harm, physical pain, or kidnapping, to be inflicted upon her or anyone else; or

(2) He has substantially impaired her power to appraise or control his or her conduct by administering or employing without her consent or knowledge, any drug, intoxicant, or other means for the purpose of preventing awareness or resistance; or

(3) The female is unconscious; or

(4) He knows or reasonably should know that the female is of such a state of consciousness or of mind, or that she suffers from a mental disease or defect, which renders her incapable of recognizing the nature of his or her conduct; or

(5) The female is less than eighteen (18) years of age.

Penetration however slight constitutes sexual intercourse for the purpose of this subsection a.

A person guilty of rape may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

b. Deviate Sexual Contact. Any person commits the offense of deviate sexual contact with another person if:

(1) He compels another person to participate by force, or by threat of death, bodily harm, physical pain, or kidnapping, threatened to be inflicted upon the victim or anyone else; or

(2) He has substantially impaired the victim's power to appraise or control either person's conduct by administering or employing without the victim's consent or knowledge, any drug, intoxicant, or other means for the purpose of preventing awareness or resistance; or

(3) The victim is unconscious; or

## CRIMINAL OFFENSES

(4) He knows or reasonably should know that the victim is of such a state of consciousness or of mind, or that the victim suffers from a mental disease or defect, which renders the victim incapable of recognizing the nature of either person's conduct; or

(5) The victim is less than eighteen (18) years of age.

The term "deviate sexual contact" as used in this subsection b. means any act of sexual gratification between human beings who are not husband and wife, involving contact of the genital organs of one and any other orifice of the body of another. A person guilty of deviate sexual contact may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

c. Sexual Assault. Any person who subject another person not his spouse to any sexual contact commits the offense of sexual assault if:

(1) He knows or reasonably should know that the sexual contact is offensive to the other person; or

(2) He has substantially impaired the power of the other person to appraise or control either person's conduct by administering or employing without consent or knowledge of the other person any drug, intoxicant or other means for the purpose of preventing awareness or resistance; or

(3) He knows or reasonably should know that the other person is of such a state of consciousness or of mind, or that the other person suffers from a mental disease or defect, which renders that person incapable of recognizing the nature of either person's conduct; or

(4) The other person is less than eighteen (18) years of age.

The term "sexual contact" as used in this subsection c. is any intentional touching of the genital organs of a male or female person, or the breasts of a female person, or any portion of the body of a female person between the knees and a line around the circumference of the abdomen at the point of the navel, whether the touching is on the bare skin or on intervening clothing. Any person guilty of sexual assault may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

d. Special Limitation. No prosecution may be instituted or maintained for rape, deviate sexual contact, or sexual assault unless the alleged offense was brought to the notice of the Tribal Police Department or other law enforcement official within thirty (30) days after its occurrence, except when the alleged victim is less than sixteen (16) years of age or otherwise incompetent to make complaint at the expiration of said thirty (30) day period. In such case, notice to the Tribal Police Department or other law enforcement official is sufficient if given within thirty (30) days after a parent, guardian, or other competent person specially interested in the victim learns of the offense, or

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within thirty (30) days after the victim attains the age of sixteen (16) years or the other incompetency is removed, whichever is the shortest period.  
[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

### CHAPTER D. OFFENSES AGAINST PROPERTY.

#### Section 321. Arson.

A person who, without legal justification or lawful authority to do so, intentionally sets fire to, burns, causes to be burned, or by the use of any explosive damages or destroys, or causes to be damaged or destroyed, any property of another, including public property or that of any unit of government, or in which another has any legally recognizable interest, commits the offense of arson. A person guilty of arson may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

#### Section 322. Burglary.

A person commits the offense of burglary if:

a. He knowingly enters, breaks into or remains unlawfully in a building or other structure with intent to commit therein a crime against a person or property, other than criminal trespass as defined in Section 327; or

b. Without legal justification or lawful authority he enters or breaks into any vault, safe, cash register, coin vending machine, product dispenser, money depository, safety deposit box, telephone coin box, vehicle, or other apparatus or equipment whether or not coin operated with intent to take, use, or steal such object or facility or anything therein.

A person guilty of burglary may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

#### Section 323. Robbery.

A person who, without legal justification or lawful authority, takes anything of value from the person or presence of another by the use of force, threats, coercion, or intimidation commits the offense of robbery. A person guilty of robbery may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

## CRIMINAL OFFENSES

### Section 324. Theft.

A person commits the offense of theft when he knowingly obtains or exercises control over any thing of value of another without authorization, or by threat or deception, or knowing said thing of value to have been stolen; and

a. Intends to deprive such other person permanently of the use or benefit of the thing of value; or

b. Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive such other person permanently of its use or benefit; or

c. Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive such other person permanently of its use and benefit; or

d. Demands any consideration to which he is not legally entitled as a condition of restoring the thing of value to such other person; or

e. Having lawfully obtained possession for temporary use of the personal property of another, deliberately fails to reveal the whereabouts of or to return said property to the owner thereof or his representative or to the person from whom he has received it, with the intent to permanently deprive such other person of its use and benefit.

A person guilty of theft wherein the value of the thing of value stolen does not exceed Five Hundred Dollars (\$500.00) may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both. A person guilty of theft wherein the value of the thing of value stolen exceeds Five Hundred Dollars (\$500.00) may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00) or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 4.]

### Section 325. Illegally Receiving Property.

A person guilty of illegally receiving property wherein the value of the property illegally received does not exceed Five Hundred Dollars (\$500.00) may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both. A person guilty of illegally receiving property wherein the value of the property illegally received exceeds Five Hundred Dollars (\$500.00) may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 5.]

Section 326. Abusing Property.

A person commits the offense of abusing property if, without legal justification or lawful authority, he knowingly uses or damages any property not exclusively his own. A person guilty of abusing property may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

Section 327. Criminal Trespass.

A person commits the offense of criminal trespass if, knowing or having reasonable cause to know that he is not licensed or privileged to do so, he willfully enters or remains upon or within any building structure, or land, or portion thereof after being ordered or notified not to enter or remain therein or thereupon. Such notice or order may be given by:

- a. Written or verbal communication actually given to the intruder;
- or
- b. Written notice posted on or about the property in a manner reasonably likely to come to the attention of potential intruders; or
- c. Fences, barricades, or other devices manifestly designed to enclose the property and to exclude potential intruders.

A person guilty of criminal trespass may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

Section 328. Joyriding.

A person who drives or takes away any motor vehicle without the consent of the owner or lawful possessor thereof, or participates with any other person in such conduct, with the intent of temporarily depriving the owner or rightful possessor of the use of the same, or of temporarily making use thereof, commits the offense of joyriding. For the purpose of this Section, "temporarily depriving" and "temporarily making use" shall refer to a period of time of not more than twenty-four (24) hours. If the offender intends to use or deprive the owner or rightful possessor of the use of the motor vehicle and in fact the owner or rightful possessor is deprived of the use of the motor vehicle, for a period in excess of twenty-four (24) hours, it shall be conclusively presumed that the person driving or taking away the motor vehicle without the consent of the owner or lawful possessor thereof intended to permanently deprive the owner or lawful possessor of its use and benefit. A person guilty of joyriding may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both; provided, however, that if the vehicle is damaged while the owner or lawful possessor thereof is deprived of its use, the offender may be sentenced to imprisonment for a period not to exceed three (3) months or a fine not to exceed Five Hundred Dollars (\$500.00); or both.

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### Section 329. Littering.

Any person who deposits, throws, dumps, discards, abandons, or leaves any litter on any public or private property or waters commits the offense of littering, unless:

(1) Such property is an area designated by law for the disposal of such litter and such person is authorized by the proper public authority to so use such property; or

(2) The litter is placed in a receptacle or container installed on such property for such use by the public or such person placing litter in it; or

(3) Such person is the owner or tenant in lawful possession of such property, or has first obtained written consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of said owner or tenant.

The term "litter" as used in this Section means all rubbish, waste material refuse, garbage, trash, debris, or other foreign substances, solid or liquid, of every form, size, kind and description. A person guilty of the offense of littering may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both.

## CHAPTER E. OFFENSES INVOLVING FRAUD OR DECEIT

### Section 330. Forgery.

A person commits the offense of forgery if with intent to defraud he falsely makes, completes, alters, offers, issues, utters, delivers, files, or submits a written instrument or any portion thereof, for the purpose of obtaining money or other consideration or thing of value, for himself or any other person. A person guilty of forgery may be punished by imprisonment not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

### Section 331. Fraud.

A person commits the offense of fraud if he obtains money, property, gain, advantage, credit, interest or asset from another by intentional misrepresentation or deceit. A person guilty of fraud may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 332. Passing Bad Checks.

A person commits the offense of passing a bad check when he makes, utters, issues, delivers or passes a written order to pay a sum of money, drawn on a bank, payable on demand or at a time certain, and signed by the drawer, when the person so acting knows or has reasonable cause to know at that time the order will not be paid or honored by the drawee because of insufficient funds or the lack of an account of the drawer deposited or on account with the drawee. A person guilty of passing a bad check may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

CHAPTER F. OFFENSES INVOLVING PUBLIC PEACE, WELFARE, ORDER AND GOVERNMENT OPERATIONS.

Section 333. Bribery.

a. A person commits the offense of public bribery, if:

(1) He offers, confers, bestows or agrees to confer or bestow any personal or pecuniary benefit, gain, privilege or advantage upon a public servant, or other person designated or agreed to by the public servant, with the intent to improperly influence the public servant's vote, opinion, judgment exercise of discretion, or other action or inaction in his official capacity; or

(2) While serving as a public servant, he solicits, accepts, or agrees to accept any personal or pecuniary benefit, gain privilege or advantage directed to himself or another person designated or agreed to by the public servant, upon an agreement or understanding that the vote, opinion, judgment, exercise of discretion, or other action or inaction by him as a public servant will be influenced thereby.

The term "public servant" as used in this Section means any officer, agent, representative, or employee of an entity or jurisdiction of government, including that of the Colorado River Indian Tribes, the United States, or any state or division thereof, whether elected or appointed, and any person participating as an advisor or consultant of government, or otherwise performing a governmental function or a service to a government.

b. A person commits the offense of private bribery, if:

(1) He offers, confers, bestows, or agrees to confer or bestow any personal or pecuniary benefit, gain, privilege or advantage upon any other person, or upon any third person designated or agreed to by that other person, as consideration for that other person violating or agreeing to violate a duty to which he is subject as:

(a) Agent or employee; or

(b) Trustee, guardian, or other fiduciary; or



## CRIMINAL OFFENSES

(c) Lawyer, physician, accountant, appraiser, or other professional advisor; or

(d) Officer, director, partner, manager, or other participant in the affairs of an incorporated or unincorporated firm, enterprise, company or association; or

(e) Duly elected or appointed representative or trustee of a labor organization or a trust fund; or

(f) Arbitrator or other purportedly disinterested adjudicator or referee; or

(2) He is a person owing a duty in any capacity set forth in (a) through (f) above, and while in that status he solicits, accepts, or agrees to accept any personal or pecuniary benefit, gain, privilege or advantage directed to himself or another person designated or agreed to by him, upon an agreement or understanding that he will violate or agree to violate his said duty.

a. A person commits the offense of bribery in sports, if:

(1) He offers, confers, bestows, or agrees to confer or bestow any benefit upon threatens any detriment to a participant or official in a sports contest or event, directed either to that person or such other person as may be designated or agreed to by that person, with the intent to influence that person not to give his best efforts as a participant or with intent to influence him to perform his duties as an official improperly; or

(2) Being a sports participant or official in a sports contest he accepts, agrees to accept, or solicits any benefit, directed to himself or such other person as may be designated or agreed to by him, from another person upon an understanding that he will thereby be influenced not to give his best and honest efforts as a participant or official in a sports contest.

b. A person guilty of public bribery, private bribery, or bribery in sports may be sentenced to imprisonment for a period not to exceed one (1) months, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

### Section 334. Abuse of Office.

A person commits the offense of abuse of office if with corrupt intent he acts or purports to act in an official capacity, including willful failure to act, so as to obtain any personal or pecuniary benefit, gain, advantage or privilege to which he is not entitled in or by the performance of his official duties. A person guilty of abuse of office may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 335. Riot.

As used in this Section the term "riot" means a public disturbance involving an assemblage of three (3) or more persons which by tumultuous and violent conduct creates substantial danger of damage or injury to property or persons or substantially obstructs the performance of any lawful governmental function. A person commits the offense of rioting if he engages in a riot. A person commits the offense of inciting a riot if he:

a. Incites or urges a person to participate or engage in a current or potential riot; or

b. Gives commands, instructions, or signals to other persons in furtherance of a riot; or

c. Knowingly supplies a weapon or destructive device for use in a riot; or

d. Teaches another to prepare or use a weapon or destructive device with intent that it be used in a riot.

A person guilty of rioting or of inciting to riot may be sentenced to imprisonment for a period not exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 336. Disobedience of Public Safety Orders Under Riot Conditions.

A person commits the offense of disobedience of a public safety order under riot conditions if during a riot, or when one is impending, he intentionally disobeys a reasonable public safety order to move, disburse, or refrain from specified activities in the immediate vicinity of the riot. A public safety order is an order designed to prevent or control disorder, or promote the safety of persons or property, issued by an authorized member of the police, fire, military, or other governmental force concerned with the riot. A person guilty of disobedience of a public safety order during riot conditions may be sentenced to imprisonment for a period not to exceed five (5) days or a fine not to exceed One Hundred Dollars (\$100.00), or both.

Section 337. Obstructing Highway or Other Passageway.

A person commits the offense of obstructing a highway or other passageway if without legal privilege he intentionally, knowingly or recklessly:

a. Obstructs a highway, street, sidewalk, railway, water way, building entrance, elevator, aisle, stairway, or hallway to which the public or a substantial group of the public has access; or any other place used for the

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passage of persons, vehicles, or conveyances, whether the obstruction arises from his acts alone or from his acts and the acts of others; or

b. Disobeys a reasonable request or order to move issued by a police officer, fireman, or a person with authority to control the use of the premises, to prevent obstruction of a highway or passageway, or to maintain public safety by disbursing those gathered in dangerous proximity to a fire, riot, or to other hazard.

A person guilty of obstructing a highway or other passageway may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

### Section 338. Trespass or Interference in Public Buildings.

A person commits the offense of trespass or interference in public buildings if he so conducts himself at or in any public building or facility owned or controlled by the Tribes or any other governmental entity, so as to willfully deny to any public official, public employee, or member of the public the lawful rights of such person to enter, to use the facilities of, or to leave any such public building or facility. It shall also be an offense under this Section for any person:

a. At or in any such public building or facility to willfully impede any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, intimidation, or by force and violence or threat thereof; or

b. To willfully refuse or fail to leave any such public building or facility upon being requested to do so by the chief administrative officer, or his designee, charged with maintaining order in such public building or facility, if such person has committed, is committing, threatens to commit, or incites others to commit any act which does, or would if completed, disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures, or functions being carried on in such public building or facility; or

c. At any meeting or session conducted by any judicial, legislative, or administrative body or official at, or in, any public building or facility, to willfully impede, disrupt, hinder the normal proceedings of such meeting or session by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting such meeting or session, or to commit any act designed to intimidate, coerce, or hinder any member of such body or official engaged in the performance of duties at such meeting or session.

A person guilty of trespass or interference in public buildings may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

Section 339. Obstructing Performance of Police Duties.

A person commits the offense of obstructing performance of police duties if he willfully prevents or attempts to prevent a police officer or other duly authorized law enforcement officer from effecting an arrest or otherwise discharging the duties of his office by any of the following:

a. Creating or appearing to create a risk of bodily harm to the officer or any other person; or

b. Employing means or threatening to employ means which would justify or require force on the part of the officer to overcome them; or

c. Escaping, attempting to escape, or assisting or attempting to assist another to escape from custody of the officer.

A person guilty of obstructing performance of police duties may be imprisoned for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 340. Desecration.

A person commits the offense of desecration if he intentionally defaces, damages, pollutes, or otherwise physically mistreats or destroys in any way any public monument, public structure or facility, or place of worship or burial, or desecrates in a public place any other object of veneration or respect by the public or a significant segment thereof. A person guilty of desecration may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

Section 341. Disobedience of a Court Order.

A person commits the offense of disobedience of a court order if he willfully disobeys any outstanding order, subpoena, warrant or command duly issued by the Courts of the Tribes or of any judge thereof. A person guilty of disobedience of a court order may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

Section 342. Perjury.

A person commits the offense of perjury if he makes any sworn statement, either in writing or orally, or a sworn affidavit, knowing or having reasonable cause to know the same to be false, or if he induces another person to do so. A person guilty of perjury may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not to exceed Three Hundred Dollars (\$300.00), or both; provided, however, that if any other person is unjustly deprived of liberty or property, or the use or benefit thereof, as a

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result of such perjury, the sentence therefor may be imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

### Section 343. Disorderly Conduct.

A person commits the offense of disorderly conduct if he intentionally, knowingly, or recklessly:

a. Uses abusive, indecent, profane, or vulgar language in a public or private place which by its very utterance tends to incite violence, unlawful conduct, or breach of peace by others, or

b. Makes an offensive gesture or display in a public place which by its very nature tends to incite violence, unlawful conduct, or a breach of the peace by others; or

c. Abuses or threatens a person in a public or private place in a manner calculated to place the threatened person in fear of bodily harm; or

d. Makes unreasonable noise in a public place, or on or near private property that he has no right to occupy; or

e. Fights with another in a public or private place; or

f. Not being lawfully authorized or privileged to do so discharges a firearm in a public or private place; or

g. Not being legally authorized to do so, displays a deadly weapon in a public or private place in a manner calculated to alarm; or

h. Not being legally justified to do so disrupts any lawful public or religious meeting or assembly; or

i. Lies or sleeps on any public street, alley or sidewalk, or in any other public place, or upon private property that he has no right to occupy.

Any person guilty of disorderly conduct may be sentenced to imprisonment for a period not to exceed fifteen (15) days, or a fine not to exceed One Hundred and Fifty Dollars (\$150.00), or both.

[As Amended December 10, 1976, Ord. No. 26F.]

Section 344. Causing or Maintaining a Public Nuisance.

A person commits the offense of causing or maintaining a public nuisance if he:

- uses; or
- permits to be used; or
- allows to be in such condition,

any real or personal property under his control so as to damage, injure or endanger the health, safety or property of another person or the public. A person guilty of causing or maintaining a public nuisance may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both, and may be ordered by the court to abate or eliminate the nuisance. Such an order to abate or eliminate the nuisance shall include the identification of the nuisance and the period of time in which it must be abated or eliminated.

Section 345. Carrying a Concealed Weapon.

A person commits the offense of carrying a concealed weapon if, without legal justification, or lawful authority as hereinafter provided, he knowingly carries concealed on or about his person a knife, firearm, or other dangerous weapon as hereinafter defined.

a. It shall be an affirmative defense that the accused was:

(1) Lawfully authorized to carry such knife, firearm or other dangerous weapon concealed on or about his person, which lawful authority shall be by permit issued by the Tribal Council or such other authority designated by it, or by written permit or other authority of the United States;

(2) A police or other law enforcement officer of the Tribes or the United States acting in the performance of his official duties; or

(3) Was in his own dwelling, or place of business, or on property owned or under his control at the time of the act of carrying; or

(4) Was in a private automobile or other means of conveyance and was carrying the weapon therein for lawful protection of his or another person's person or property while traveling.

b. The following definitions apply to this Section:

(1) "Knife" means any dagger, dirk, knife, sword, spear, or stiletto with a blade over three and one-half (3½) inches in length, or any other instrument capable of inflicting cutting, stabbing, or tearing wounds, but it does not include a hunting or fishing knife carried for sports or other lawful use.

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(2) "Firearm" means any gun, revolver, pistol, rifle, shotgun, or other weapon which discharges a projectile by explosive force.

(3) "Dangerous weapon," in addition to a firearm or knife, includes any dart, blow-gun, air or pellet gun, non-safety razor, blackjack, billy club, sand club, sand bag, any hand-operated striking weapon consisting at the striking end of an encased heavy substance or at the handle end a strap or springy shaft which increases the force of impact, any device designed for propelling by release of gas or spring pressure, any device designed to discharge chemicals as an offensive or defensive weapon, a bomb or any other explosive or incendiary device or Molotov cocktail, brass knuckles or other device intended to be worn on the hand or other part of the body for infliction of injury to another person.

A person guilty of carrying a concealed weapon may be sentenced to imprisonment for a period not exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

### Section 346. Adultery.

A person commits the offense of adultery by having voluntary sexual intercourse with another person if either of such persons is married to a third person; provided, however, it shall be an affirmative defense of a person charged with adultery that such person had no knowledge or reasonable cause to have knowledge that either participant was married to a third person. A person guilty of adultery may be sentenced to imprisonment for a period not to exceed fifteen (15) days, or a fine not to exceed One Hundred and Fifty Dollars (\$150.00), or both. No prosecution may be instituted or maintained for adultery except upon the complaint of a spouse of either of the offenders, nor unless criminal proceedings are commenced by such person by the filing of a written complaint within thirty (30) days after discovery by the complainant of the alleged adultery.

### Section 347. Unlawful Cohabitation.

A person commits the offense of unlawful cohabitation if that person customarily or regularly lives or cohabits with another person as husband and wife, not being married to such other person. A person guilty of unlawful cohabitation may be sentenced to imprisonment for a period not to exceed five (5) days, or a fine not to exceed Fifty Dollars (\$50.00), or both.

### Section 348. Bigamy.

A person is guilty of the offense of bigamy if knowing or having reasonable cause to know that he is then married, he marries another person, or he marries another person knowing or having reasonable cause to know that such other person is then married to a third person. A person guilty of bigamy may be sentenced to imprisonment for a period not to exceed three (3)

months, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

Section 349. Incest.

A person commits the offense of incest who knowingly marries or has sexual intercourse with an ancestor or descendant, a brother or sister of the whole or half blood, or an uncle, aunt, nephew, or niece of the whole blood. A person guilty of incest may be sentenced to imprisonment for a period not to exceed three (3) months, or a fine not exceed two Hundred and Fifty Dollars (\$250.00), or both.

Section 350. Indecent Exposure.

A person commits the offense of indecent exposure by deliberately exposing the genital organs of a person to the view of another person or persons or by exposing them under such circumstances that the exposing person has reasonable cause to know that such exposure may be viewed by another person or persons, if in either event the exposing person knows or has reasonable cause to know the conduct may offend some person or persons viewing the same. A person guilty of indecent exposure may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both.

Section 351. Prostitution and Related Offenses.

a. A person who performs, offers, or agrees to perform any act of sexual intercourse, or any act of deviate sexual contact with any person not the spouse of the offender in exchange for money or any other thing or consideration of value commits the offense of prostitution. A person guilty of prostitution may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

b. A person commits the offense of solicitation for prostitution if that person:

- (1) Solicits another for the purpose of prostitution; or
- (2) Arranges or offers to arrange a meeting of persons for the purpose of prostitution; or
- (3) Knowingly grants or permits the use of a place of which the person has or exercises control for the purpose of prostitution; or
- (4) Knowingly lives on or is supported or maintained in whole or in part by money or other consideration or thing of value earned, received, procured, or realized by any person through prostitution; or



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(5) By word, gesture, or action endeavors to further the practice of prostitution in any public place or within public view; or

(6) Who furnishes or makes available to another person any facility, knowing that the same is to be used for or in aid of prostitution, or who shall advertise in any manner that he furnishes or is willing to furnish or make available any such facility for such purpose.

A person guilty of soliciting for prostitution may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

c. A person who engages in any act of sexual intercourse or of deviate sexual contact with a prostitute commits the offense of patronizing a prostitute. A person guilty of patronizing a prostitute may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

### Section 352. Offenses Concerning Liquor.

a. **Illegal Consumption of Liquor.** A person commits the offense of illegal consumption of liquor if he consumes any malt, vinous or spirituous liquor in any public place except on premises upon which there is lawful authority to sell such liquor by the drink for consumption thereon. Possession of a container of malt, vinous or spirituous liquor on which the United States excise tax seal has been broken or removed, or from which the cap, cork, or seal placed thereon by the manufacturer has been removed shall constitute a rebuttable presumption of consumption. A person guilty of illegal consumption of liquor may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both.

b. **Delivery of Liquor to a Person Under the Age of Twenty-One.** A person commits the offense of delivering liquor to a person under the age of twenty-one (21) if he sells, furnishes, procures for, or knowingly assists in the furnishing of any malt, vinous or spirituous liquor to any person under the age of twenty-one (21) years. A person guilty of delivery of liquor to a person under the age of twenty-one (21) may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

c. **Under Age Possession of Liquor.** A person under the age of twenty-one (21) years commits the offense of under age possession of liquor if he buys, receives, possesses, or consumes, or attempts to buy, receive or possess any malt, vinous or spirituous liquor. Violations of this subsection committed by persons under the age of eighteen (18) years shall be handled in accordance with Article 1. of the Domestic Relations Code of the Colorado River Indian Tribes. A person under the age of twenty-one (21) years who is guilty of underage possession of liquor may be confined in an appropriate facility for a period not to exceed thirty (30) days, or required to pay a fine in an amount not to exceed Fifty Dollars (\$50.00), or both.

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d. For the purposes of this Section, malt, vinous or spirituous liquor includes beer and any other beverage obtained by the alcoholic fermentation of any infusion or decoction of barley, malt, hops or any other similar product or any combination thereof in water; wine and fortified wines and any other alcoholic beverage obtained by the fermentation of the natural sugar contents of fruits or other agricultural product containing sugar; and any alcoholic beverage obtained by distillation, mixed with water and other substances in solution, including brandy, rum, whiskey, gin and every liquid or solid, patented or not, containing alcohol and which is manufactured primarily for beverage purposes.

[As Amended, October 11, 1986, nunc pro tunc August 9, 1986, Ord. No. 86-3.]

### Section 353. Public Intoxication.

A person commits the offense of public intoxication if he appears in any public place manifestly under the influence of alcohol, narcotics, or other drugs to the degree that he may endanger himself or other person or property. A person guilty of public intoxication may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both.

### Section 354. Possession or Furnishing of Narcotics.

a. A person commits the offense of possession or furnishing of narcotics if he knowingly possesses, manufactures, transports, sells, consumes, uses, cultivates, or trades in any of the following:

(1) Marijuana or any portion of the plant cannabis sativa L. or any substance containing it; or

(2) Opium, morphine, codeine, hashish, or heroin; or

(3) Any drug or other substance identified or defined as a "controlled substance" under the provisions of Chapter 13, Title 21, United States Code, as amended to the date of the offense.

This Section shall not apply to the possession, furnishing or use of any substance for medical purposes under the prescription or supervision of a person licensed by the United States or one of the states thereof to administer, prescribe, control or dispense such substance. A person guilty of the offense of possession of narcotics may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both; provided, however that if any person over the age of eighteen (18) years is guilty of an offense under this Section by providing or furnishing such substance to a person under the age of eighteen (18) years, the maximum sentence specified hereunder shall be imposed in its entirety by the court.

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### b. Seizure of Vehicles used in Narcotics Violations:

(1) The interest of legal owner or owners of record of any vehicle used to transport unlawfully a narcotic drug, or in which a narcotic drug is unlawfully kept, deposited or concealed, or in which a narcotic is unlawfully possessed by an occupant, shall be forfeited to the Tribes.

Any peace officer making or attempting to make an arrest for a violation of this Section shall seize the vehicle used to transport unlawfully a narcotic drug, or in which a narcotic drug is unlawfully possessed by an occupant, and shall immediately deliver the vehicle to the Tribal Chief of Police.

(2) A peace officer who seizes a vehicle under the provisions of this Section shall file a notice of the seizure and intention to institute forfeiture proceedings with the Judicial Clerk of the Tribal Court, and the Judicial Clerk shall serve notice thereof on all owners or claimants of the vehicle, by one of the following methods:

a. Upon an owner or claimant whose right, title or interest is of record in the division of motor vehicles where the vehicle is registered and licensed, by mailing a copy of the notice by registered mail to the address on the records of the appropriate motor vehicle division.

b. Upon an owner or claimant whose name and address are known, by mailing a copy of the notice by registered mail to his last known address.

c. Upon an owner or claimant whose address is unknown but who is believed to have an interest in the vehicle, by publication in one issue of a newspaper of general circulation on the Reservation.

(3) Within twenty (20) days after the mailing or publication of a notice of seizure, as provided, the owner of the seized vehicle may file a verified answer to the allegation of the use of the vehicle contained in the notice of seizure and of the intended forfeiture proceedings. No extension of time shall be granted for the purpose of filing the answer.

(4) If a verified answer to the notice given as prescribed by this Section is not filed within twenty (20) days after the mailing or publication thereof, the court shall hear evidence upon the charge of unlawful use of the vehicle, and upon motion shall order the vehicle forfeited to the Tribes.

(5) A claimant of any right, title or interest in the vehicle may prove his lien, mortgage or conditional sales contract to be bona fide, and his right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the purchaser, and without knowledge that the vehicle was being, or was to be used for the purpose charged, but no person who has a lien dependent upon possession for the compensation to which he is legally entitled for making repairs or performing labor upon and furnishing supplies or materials, for, and for the storage, repair

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or safekeeping of any vehicle and no person doing business under any law of a state or the United States relating to banks, trust companies, building and loan associations, and loan companies, credit unions, or licensed pawnbrokers or money lenders or regularly engaged in the business of selling vehicles or of purchasing conditional sales contracts on vehicles shall be required to prove that his right, title or interest was created after a reasonable investigation of the moral responsibility, character and reputation of the owner, purchaser, or person in possession of the vehicle when it was brought to the claimant.

(6) If proper proof is presented at the hearing, the court shall order the vehicle released to the bona fide owner, lien holder, mortgagee or vendor if the amount due him is equal to, or in excess of, the value of the vehicle as of the date of seizure, it being the purpose of this Section to forfeit only the right, title or interest of the purchaser.

(7) If the amount due the claimant is less than the value of the vehicle, the vehicle shall be sold at public auction by the Tribal Chief of Police.

(8) When a vehicle is seized, forfeited and sold under the provision of this Section, the net proceeds of the sale shall be distributed as follows and in the order indicated:

(a) To the bona fide or innocent purchaser, conditional sales vendor or mortgagee of the vehicle, if any, up to the amount of his interest in the vehicles, when the court declaring the forfeiture orders a distribution to such person.

(b) The remainder, if any, to the Tribal Treasurer, for deposit in the General Fund.

(9) If the court finds that the vehicle was not used to transport narcotic drugs, it shall order it released to the owner as his right, title or interest appears of record as the date of the seizure.

(10) Exemption. The provisions of this Section relating to forfeiture of vehicles shall not apply to a common carrier or to a peace officer acting within the scope of his employment.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

Section 355. Inhaling Toxic Vapors.

A person commits the offense of inhaling toxic vapors if he, for the purpose of becoming intoxicated or subjecting himself to the influence of them, willfully inhales the vapors or fumes of paint, gasoline, glue or any other substance producing intoxicating fumes or vapors. A person guilty of inhaling toxic vapors may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred and Fifty Dollars (\$250.00), or both.

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### Section 356. Child Abuse.

A person commits the offense of child abuse if he knowingly, intentionally, or negligently, and without legal justification, causes or permits a person under the age of eighteen (18) years to be:

- a. Placed in a situation that may endanger its life or health; or
- b. Exposed to the inclemency of the weather; or
- c. Abandoned, tortured, cruelly confined, or cruelly punished; or
- d. Deprived of necessary food, clothing or shelter.

A person guilty of child abuse may be sentenced to imprisonment for a period not to exceed one (1) year, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

[As Amended January 11, 1992, Ord. No. 92-1, § 1.]

### Section 357. Contributing to the Delinquency of a Minor.

A person commits the offense of contributing to the delinquency of a minor if he knowingly causes, encourages or assists a person under the age of eighteen (18) years to be delinquent. For purposes of this Section 357, delinquent shall mean (1) a child who has violated a law of the Tribes or of a federal or state government, or any political subdivision thereof; (2) a child who, by reason of being incorrigible or habitually disobedient, is uncontrolled by his parents, guardian or custodian; (3) a child who is habitually truant from school or home; (4) a child who knowingly and habitually acts so as to injure or endanger the morals or health of himself or others. A person guilty of contributing to the delinquency of a minor may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

[As Amended March 10, 1990, Ord. No. 90-2, § IIa.]

### Section 358. Cruelty to Animals.

A person commits an offense of cruelty to animals if, except as otherwise authorized by law or with legal justification, he intentionally or recklessly:

- a. Subjects any animal to mistreatment; or
- b. Subjects an animal in his custody to neglect; or
- c. Abandons any animal; or
- d. Kills or injures any animal belonging to another,

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A person guilty of cruelty to animals may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Fifty Dollars (\$50.00), or both.

### Section 359. Soliciting Without a License.

A person commits the offense of soliciting without a license if he begs or solicits gifts or donations of money or property door to door, or by telephone, or on the streets, sidewalks or other public places, without a license issued by the Tribal Council or its duly authorized agency or representative. A person guilty of soliciting without a license may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred Dollars (\$200.00), or both.

### Section 360. Transmitting False Alarms.

A person commits the offense of transmitting false alarms if he knowingly transmits or causes to be transmitted a false message, report or signal of fire or other emergency to or within any organization dealing with emergencies involving danger to life or property. A person guilty of transmitting a false alarm may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both; provided, however, if the false alarm results directly or indirectly in injury to person or property the person guilty of the offense may be sentenced to imprisonment for a period not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars (\$500.00), or both.

### Section 361. Curfew.

A person commits the offense of violation of curfew if:

a. He is a child under the age of sixteen (16) years and is found in any public place within the Reservation between the hours of 10:00 o'clock P.M. and 6:00 o'clock A.M. unaccompanied by a parent, custodian, guardian, or other person having legal responsibility for such child; or

b. He is the parent, custodian, guardian or other person having legal responsibility for a child under the age of sixteen (16) years and permits said child to be in any public place within the Reservation between the hours of 10:00 o'clock P.M. and 6:00 o'clock A.M. unaccompanied by a parent, custodian or guardian having such responsibility, or who fails to exercise reasonable supervision and control of such child to prevent such child from being in violation of curfew.

It shall not be an offense under this Section, if a child under the age of sixteen (16) years is traveling directly between his home and an event supervised or under the direct control of a person over the age of eighteen (18) years, nor if the said child is responding to an emergency situation. A person over the age of eighteen (18) years who is guilty of violation of curfew may be sentenced to a fine not to exceed One Hundred Dollars (\$100.00).

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A child under the age of sixteen (16) years who is guilty of violation of curfew, in addition to any other court order or disposition under the provisions of the Domestic Relations Code, may be restricted or confined to appropriate living or other facilities for a period not to exceed thirty (30) days.

[As Amended March 10, 1990, Ord. No. 90-2, § IIb.]

### Section 362. Sewage Disposal.

A person commits the offense of improper disposal of sewage if he empties, discharges, permits to accumulate, or deposits upon any land or waters within the Reservation any form or amount of sewage or sewage affluent, except that which has been properly and completely treated in an authorized treatment plant, or which is disposed of in or by a facility and in accordance with procedures approved by the Tribal Council or other agency designated by it. A person guilty of improper disposal of sewage may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both.

### Section 363. Unlawful Repossession.

A person commits the offense of unlawful repossession if he repossesses or attempts to repossess upon the Reservation any personal property for the satisfaction or discharge, in whole or in part, of any claim or debt, or upon the claimed default of any agreement or the terms of any indebtedness unless first he:

a. Executes and delivers to the owner, purchaser, or other person in possession a waiver of claim for any remaining debt or other obligation (including finance and other charges) of the property to be repossessed, and obtains written consent from the debtor not more than five (5) days prior to the time of repossession; or

b. Obtains an order, decree or judgment from the Tribal Court, made and entered after due notice to the debtor and the conduct of a hearing. A duly authorized tribal police officer must accompany any person who has obtained such order, decree or judgment when such person attempts to satisfy or enforce this order, decree or judgment.

A person guilty of unlawful repossession may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed Two Hundred Dollars (\$200.00), or both. In addition, a person guilty of unlawful repossession shall be liable for damages in a civil action brought for that purpose.

Section 364. Contempt Upon The CRIT Flag.

A person commits the offense of contempt upon the CRIT Flag if he knowingly and publicly mutilates, defaces, defiles, burns or tramples upon the CRIT Flag. A person guilty of contempt upon the CRIT Flag may be sentenced to imprisonment for a period not to exceed thirty (30) days, or a fine not to exceed One Hundred Dollars (\$100.00), or both. A person not subject to the criminal jurisdiction of the Colorado River Indian Tribes who commits any act or engages in any conduct or activity which constitutes the offense of contempt upon the CRIT Flag shall be expelled from the Reservation.

[As Amended June 11, 1979, Ord. No. 26G, § 1.]

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[Article IV of the Law and Order Code of the Colorado River Indian Tribes, enacted by Ordinance No. 26 on June 22, 1974, including all amendments thereto, was repealed on November 13, 1982 by Ordinance No. 82-1.]